THE NATION

JULY 19, 1971 50 cents

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A FAIR TRIAL FOR ANGELA DAVIS?

Jerome H. Skolnick & Steven A. Brick

UNMASKING CORPORATE OWNERSHIP

Sen. Lee Metcalf & Vic Reinemer

THE RISE OF TENANT ORGANIZATIONS

Peter Marcuse

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LETTERS

'terrible significance'

Miami, Fla.

DEAR SIRS: "The Political Economy of War" by Prof. Douglas Dowd [*The Nation*, June 28] is an excellent article. Appropriately in my file it is going with the late Paul Baran's book.

Perhaps the following quotations, of which Professor Dowd may not be aware, augment the thesis of synthesis between military and political-economic—no matter which is the original voluntary one.

"Now let's assume that we lost Indochina . . . the tin and tungsten that we so greatly value from that area would cease coming. . . . So when the United States votes $400 million to help that war, we are not voting a giveaway program. We are voting for the cheapest way that we can to prevent the occurrence of something that would be of a most terrible significance to the United States of America, our security, our power and ability to get certain things we need from the riches of the Indochinese territory and from Southeast Asia." (*President Eisenhower to conference of U.S. State Governors, Seattle, Wash., August 4, 1953.*)

"It is rich in many raw materials such as tin, oil, rubber, and iron ore. . . . The area has great strategic value. . . . It has major Naval and Air bases." (*Secretary Dulles, March 29, 1954.*)

Harry E. Beller, M.D.

no coincidence

Orillia, Can.

DEAR SIRS: The appearance in *The Nation* of several articles and book reviews re Canada and Canadian authors is pleasant if somewhat surprising. The first week (May 24: "Meditations of a Landed Immigrant" by Edgar Z. Friedenberg) I was pleased; the second (May 31: review of Pierre Berton's *The National Dream* by Ray Ginger) I was surprised; and now (June 14: "Aliens in Their Own Land" by Leslie Armour and review of Mordecai Richler's *Saint Urbain's Horseman* by Donald Cameron) I am amazed. Is this a coincidence or a foretaste of future articles?

At any rate, the quality of writing is far superior to anything here.

John H. Bray

in print

New York City

DEAR SIRS: I noticed that Charles Molesworth said, in his interesting review of Christopher Caudwell's *Romance and Realism* in your June 14th issue, that Christopher Caudwell's *Studies in a Dying Culture* and *Further Studies in a Dying Culture* are still out of print "while meretricious literary criticism floods the presses." I'm happy to be able to tell your readers that we have just reissued *Studies and Further Studies* in a single volume.

Harry Braverman, Director, Monthly Review Press

case of Dreifus

Bronx, N. Y.

DEAR SIRS: I have not read *The Female Eunuch* yet—I'm in the middle of *Sexual Politics*. *The Female Eunuch* seems probable to be an ephemeral phenomenon, while Millett's book will be accorded a permanent place in the pantheon of great books on feminism. However, Claudia Dreifus' review of Germaine Greer's book [*The Nation*, June 7] was singularly shallow, a typical put-down by an angry feminist who believes that men alone are her oppressors. Yes, men need liberation, but hating them is certainly not the answer. And why does she end her review with such a resounding cliché: ". . . if Germaine Greer didn't exist, Norman Mailer would have had to invent her"? Ugh. *Bill Sidnal*

EDITORIALS

Mr. Nixon's Box

President Johnson destroyed himself politically when he sent an expeditionary force to Vietnam so large that weekly casualties mounted into the hundreds. President Nixon wiggled out of a parallel disaster by "winding down the war" and reducing American casualties to what the American public (outside of the morally concerned) evidently finds a tolerable level, at least for the present. At the same time, with his unfailing opportunism, Mr. Nixon made a big issue out of the American prisoners of war the North Vietnamese were holding. Now the North Vietnamese have called his bluff on that particular point. Their proposal is one of "proportional repatriation"—they will release prisoners as American troops are withdrawn. The two ratios will run parallel: until all Americans are out of South Vietnam, Hanoi will hold some of our men.

The proposal is now official, but it is not new. In *The Nation* of March 29, 1971, two Congressmen, Rep. Robert L. Leggett (D., Calif.) and Donald Riegle (R., Mich.) set forth essentially the same idea. After quoting President Nixon, Secretary of Defense Melvin Laird, and Mrs. Nguyen Thi Binh, they summed up the situation in three terse sentences: "We won't get out until we're sure they'll give the POWs back. They won't settle the POW question until they're sure we're getting out. So why not do both at once?"

Mr. Leggett followed up the *Nation* article with a conference with the North Vietnamese delegation in Paris. Whether that had anything to do with the current negotiations we do not know, but the Leggett-Riegle proposal and the current offer by the "other side" are virtually the same. For the time being the offer has been rejected but the North Vietnamese are steadily closing in on Mr. Nixon with one astute proposal after another. If he keeps on rejecting these proposals, it will indeed begin to look, as Daniel Ellsberg has suggested, like a "replay of the year 1964."

Vietnamization and October 3rd

South Vietnam's Presidential election is less than three months away. "Vietnamization"—the term itself is only the latest in a series of swindles in which the governments of the United States and of South Vietnam have collaborated—entails both military and political difficulties. Not the least of these is how the October 3rd election is to be rigged, and yet be made to look like an honest election—well, halfway honest at least.

Thieu is the odds-on favorite for several reasons. As the incumbent, he can strong-arm the opposition with his army of thugs and servitors, as in fact he has been doing since he was "elected" in 1967. He has had the runner-up in the 1967 travesty, Truong Dinh Dzu, in jail since 1968. This June he pressured the National Assembly into passing a law that would require a prospective candidate to obtain the endorsement of forty legislative representatives or 100 provincial councilors to get on the ballot. That would seem to bar Vice President Nguyen Cao Ky. According to news-

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men in Saigon, the average price for a vote in favor of this provision was 700,000 piasters (slightly over $2,500). The mailed fist was enclosed in a velvet glove.

Not that, as a blackballed candidate, Ky is much of a loss. He is a loose-tongued screwball. Casting about for an issue, one week he was screaming for an invasion of North Vietnam by the ARVN, with American air support of course. A few weeks later he was all for negotiating with Hanoi. And once in a while he blurts out the truth. He has called the 1967 election a "mockery" which elected a regime (including himself) which is "wrong and corrupt and weak and which would fall immediately with a revolution." He expressed contrition for his own part in the affair.

Ambassador Ellsworth Bunker, Thieu's good friend, is in a quandary. So is President Nixon. As Lyndon Johnson referred to the unfortunate Ngo Dinh Diem as the "Churchill of Asia," Mr. Nixon has described Thieu as one of the five or six greatest statesmen in the world today. The Nixon Administration would like Thieu to remain President, but the election cannot be openly farcical, as it will be if no one runs against Thieu.

If somehow Ky manages to run, and Gen. Duong Van Minh ("Big Minh") decides to run, there might be a real election—and Minh might win. In the Presidency, he might permit negotiations with Hanoi and the National Liberation Front. That would offer Nixon an escape hatch, but how could he reconcile it with his present policy which is, under cover of "Vietnamization," to continue the war with the USAF backing the ARVN? That fraud could be put over much more readily with Thieu in the Presidency than with Minh, hence Kissinger's pretense of neutrality, coupled with assurances to Thieu. Nixon is crafty, but he must come hard by a good night's sleep with October 3, 1971 a day closer every time he lays his head on the pillow.

Just One Cheer

The 6-to-3 decision of the Supreme Court freeing *The Washington Post* and *The New York Times* of any restraint on publication of the Pentagon papers deserves just one cheer. It is of course reassuring to have the "no prior restraint" doctrine of *Near* vs. *Minnesota* (1931) reaffirmed in the present context. But there are soft spots in the decisions which suggest that next time round the outcome might be different. On an issue of this kind, Justices Black and Douglas are now the anchor men on the Court. But both are getting along in years; if anything were to happen to them, the balance of the Court could be shifted well to the Right. The decisions of Justices White and Stewart, who are now clearly the "swing men" on the Court, are far from reassuring. Justice White—whose opinion was concurred in by Justice Stewart—made it clear that he felt the government had failed to sustain "the very heavy burden" which would be required to justify an injunction against publication. But such a statement does not rule out the possibility that had it done so, the injunction might have been sustained. Also Justice White seemed almost to be urging the government to proceed with criminal proceedings in which the issue of guilt or innocence "would be determined by procedures and standards quite

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different from those that have purported to govern these injunctive proceedings"

There is cold comfort in both points. Justice Thurgood Marshall's decision turns on the proposition that Congress had declined on at least two occasions to enact legislation to make the conduct engaged in unlawful, which would have given the President the power to proceed as he had in both cases. He decided, therefore, that the Court had no authority to do what Congress had declined to do. "It is not for this Court to fling itself into every breach perceived by some government official, nor is it for this Court to take on itself the burden of enacting law, especially law that the Congress has refused to pass." This is "strict construction" with a vengeance, and raises grave doubts about how Justice Marshall might vote on some tomorrow should Congress act on his suggestion.

So on analysis a 6-to-3 decision turns out to be 3 to 3, with three Justices occupying a dangerously inconclusive middle ground on the major issue. While it is good that the *Post* and the *Times* carried the day this time, it is by no means clear how durable a victory has been won for freedom of the press. Next time the government may proceed with less haste by initiating a criminal proceeding in which it might be able to make a case that would sustain a conviction if one were returned. Were the materials not so stale and of such largely historic interest, the Attorney General might have decided to initiate a criminal prosecution against both papers. The effect of the decision, therefore, is not to shore up the doctrine of "no prior restraint" but to suggest that it is in more danger of being toppled or fatally qualified than at any time since 1931 when the Court decided *Near* vs. *Minnesota*.

How Could They?

Out of the depth of his anguish, Daniel Ellsberg asks: how could four Presidents and their advisers do what they did, given the internal documentation available to them and now revealed in the Pentagon papers? Historians will debate the question for years, but there is a partial answer that we may be sure will not receive the attention it deserves. Reason is of little avail when the decision makers of a nation feel that they are committed to, and restricted by, a policy as rigid as "anti-communism." In the postwar period "anti-communism" became the only policy we had; options and initiatives were considered only to the extent that they contributed to the "fight against communism." The consensus was virtually unanimous; even so, measures were taken to preclude significant dissent.

The academic professions were purged. A few dissenting unions were driven from the labor movement. The ranks of government employment at all levels were scrutinized and no mercy was shown those who had spent a vacation in the USSR or formed the "wrong" associations. At great expense, the State Department had recruited and trained a small group of China experts, men who knew China, its language, its culture, its history. These loyal, distinguished public servants were shamefully driven from the Department, and replaced by right-wing zealots whose only claim to office was their ability to withstand any loyalty inquiry, no matter how idiotic. Intellectuals joined the cold-war bandwagon and testified against those of their former colleagues who declined to jump aboard. After 1948 any semblance of a "Left" political opposition which might have talked some sense on foreign policy had been eliminated.

Both major parties not only subscribed to the doctrine but competed in demonstrating fervor in its support. Politicians who showed some scruples about abandoning traditional values were savagely cut down. Consider, for example, the case of Sen. Millard Tydings who had insisted that a distinguished constituent, Owen Lattimore of Johns Hopkins University, be given a fair hearing. Tydings was a fourth-term Senator, a man that President Roosevelt had failed to purge, a man thought to own Maryland politically. Yet a political unknown, with the aid of Joseph McCarthy and a cropped photograph showing Tydings shaking the hand of Earl Browder, was able to topple this pillar of the Senate. William Benton and Scott Lucas went the same route. The point was not lost on their colleagues. No politician of either party could afford to be thought "soft on communism." The effect, of course, was to rule out any possibility of accommodation with Russia, China, Cuba or the East European countries with the exception of Yugoslavia, a special case. Support for the policy was so massive as to exclude, on purely practical grounds, consideration of optional policies. An undeclared war was fought in Korea in its defense; blank-check resolutions were adopted with virtually no debate or opposition; whatever was asked in the name of "anti-communism" was granted. So the question is really not "how could they?" but how could they do anything other than they did, given the assumptions in which they were entrapped.

Take the case of President Kennedy. His first official act was to ask J. Edgar Hoover and Allen Dulles to stay on—symbolic assurance of his adherence to the official creed. After the Bay of Pigs fiasco, he found himself under enormous pressure, as we now know, "to do something to demonstrate firmness"—somewhere, somehow. So a task force was set up, the day after the invasion failed, to recommend actions in Vietnam. Was it simply that he and his advisers felt that a show of force, somewhere, for almost any reason, was necessary to convince the "enemy" we still meant business, or was it that they felt compelled to demonstrate to the American people, and the political opposition, that they would continue to stand firm against communism? No doubt it was a mixture of both, but domestic politics determined the way in which the external scene was interpreted. Again and again in the Pentagon papers the decision makers, civilian and military, presented Presidents with either/or propositions, fight or surrender, with no serious consideration of possible options.

Chester Bowles, in testimony before the Senate-House subcommittee investigating military assistance programs, tells how we permitted the French to blackmail us (his words) into financing their efforts in Indochina. They insisted on arms and aid as the price for the twelve divisions they were supposed to contribute to NATO. At the same time they assured us that their objective was not to reestablish their colonial rule but rather to "block communism" and protect French property. We had, of course, no defense to this argument. So we gave them what they wanted and they sent all of the twelve divisions to Algeria

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to fight still another failing colonial war. Initially the Point Four Program had some promise, but when Bowles went to Vietnam in 1952, U.S. aid to the French in Indochina was already 2.5 times our entire worldwide contributions to Point Four programs. So much for optional policies.

Ellsberg is right. Vietnam was not a "quagmire," "morass," "bog" or "quicksand" into which we stumbled; we were trapped in Vietnam by the nature of the assumptions we had permitted to determine American foreign policy and dominate domestic politics.

'Don't Call Me Champ'

The Supreme Court wound up its session in a blaze of publicity and judicial wisdom. It reaffirmed—and strengthened—the vital tradition of separation of church and state; it consented to hear appeals which will raise directly the question of whether, in the modern world, capital punishment violates the constitutional prohibition of "cruel and unusual punishment"; and it decided that the government could not restrain the publication of the Pentagon papers. Clearly, at the Supreme Court level, wisdom and equity have not vanished from the American scene.

In yet another decision, the human aspect predominated. The unanimous reversal of the conviction of Muhammad Ali for draft evasion may not rank historically with press censorship and the like, but it is an important and curiously moving mandate, and one packed with drama.

The Supreme Court's ruling was basically on the limited ground that the appeals board had denied Ali's exemption claim without specifying on what ground the determination was made. Actually this was only a minor incident (although if upheld it would have sent Ali to prison for five years) in comparison with the open animosity of the boxing establishment (the World Boxing Association and the New York State Athletic Commission) toward the champion as soon as the government proceeded against him. These potentates behaved as if they were auxiliaries of the American Legion.

With rare exceptions, the boxing world is a morass of violence and corruption. Ali is one of the exceptions. He bears no grudge against those who wronged him; if anything, he is overly charitable. "They only did what was right at the time," he says. "I did what I thought was right. That was all. I can't condemn them. . . ." But, morally, it was Ali who was right and his detractors who were wrong. He offended them when he called Vietnam "a white man's war." When one considers the contempt of the average GI for the average Vietnamese (even those who are on the American side) wasn't Ali's characterization valid?

In the past he has been boastful—a showoff, although often an entertaining one. But there is another side to this young man, and that is why we call him civilized—more so than many a scholar who never offends the ear with a double negative. When he became a Muslim, he told the world: "I don't have to be what you want me to be. I'm free to be what I want."

In defeat he behaved as well as in victory and that, as Seneca said, is the test of a man. After Ali lost to Frazier, Robert Lipsyte reported Ali's remarks in his column in *The New York Times*: "Just lost the fight, that's all. More important things to worry about in life. Probably be a better man for it."

Someone in the crowd of newsmen demurred. Ali went on: "News don't last too long. Plane crash, ninety people die, it's not news no more a day after. My losing not so important as ninety people dying. Presidents get assassinated, civil rights leaders assassinated, you don't hear so much about that no more. . . . You all be writing about something else soon. I had my day. You lose, you lose. You won't shoot yourself."

"Champ," the next questioner began.

"Don't call me the champ," Ali said gently. "Joe's the champ now."

The Nation has nothing against Joe Frazier and its concern with professional sports is minimal, but it would not mind seeing Muhammad Ali win back his title. Whether he does or not is of minor consequence. The important fact is that, on his record, he is a credit to his country, and the Supreme Court did well to vindicate him.

A Well-Deserved Boot

In "Lawyers for the Poor" (*The Nation,* December 14, 1970) Sheldon Greene described the efforts to put California Rural Legal Assistance out of business. Eventually the federal Office of Economic Opportunity appointed a three-man board to inquire into the charges that Governor Reagan, or persons in his administration, had brought against CRLA. It would be difficult for the most embittered reactionary to find fault with the members of the board of inquiry. The chairman was Chief Justice Robert B. Williamson (ret.) of Maine; the other members were Chief Justice George R. Currie (ret.) of Wisconsin, and Justice Robert B. Lee of the Supreme Court of Colorado.

The three judges investigated, pondered, and turned in a 400-page report. Last December Governor Reagan vetoed refunding the CRLA program and supported his action with 135 charges against the agency. These charges the board declared "unfounded, without merit, unfair, and irresponsible." Furthermore, it found the CLRA has been discharging its duties in a "highly competent, efficient and exemplary manner." Reagan's report, the board said, had taken "evidence out of context and misrepresented the facts . . . had unfairly and irresponsibly subjected many able, energetic, idealistic and dedicated CLRA attorneys to totally unjustified attacks upon their professional integrity and competence," and so on.

In respectable legal circles, these are rough words. The findings of the board must have been something of a shock, certainly to Reagan, whose backside has been severely wounded. To placate him, Nixon has come up with $2.5 million for Reagan's own experimental legal program, Judicare [see *The Nation,* May 24, 1971, "Reagan's Legal Aid"]. But in the meantime CRLA will be kept alive through 1972 with an appropriation of $2.6 million over the next seventeen months.

As Senator Tunney says, the poor have been pawns in a political chess game between Nixon and Reagan, with neither desiring a lethal confrontation, and neither utterly defeated in the resolution which was arrived at. Except, of course, for the board of inquiry's harsh language—but Mr. Reagan has a tough skin.

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THE NOMINEE LIST

Unmasking Corporate Ownership

SEN. LEE METCALF and VIC REINEMER
Senator Metcalf is the junior Senator from Montana. Mr. Reinemer is his executive secretary. They are joint authors of: Overcharge: How the Electric Utilities Exploit and Mislead the Public and What You Can Do About It, *published by McKay, 1967.*

Washington

Aftco, Byeco, Cadco, Gepco, Ninco. A space age counting system? No. Those are "front" names used by American corporations to hide their identity. The names above—and thirteen others, when translated from the Corporate Code—identify financial interests of the Prudential Insurance Company of America.

Use of multiple pseudonyms is common corporate practice today. The biggest name-dropper is the Bank of America. It uses 111 front names—which the securities trade calls "street names," "straws" or "nominees"—to hide its identity in financial affairs.

Occasionally the name of the nominee offers a clue to the identity of the owner or trustee. The University of Pennsylvania proudly lists its investments under Franklin & Co. The Wisconsin Alumni Research Foundation uses the acronym Warf & Co. St. Mary's Convent at Notre Dame handles the Foreign Mission Fund of the Sisters of the Holy Cross through the Annunciata, Angela, Augusta or Pauline companies.

Usually, though, the name of the nominee affords no clue. The *Nominee List,* a publication closely held by the American Society of Corporate Secretaries at 9 Rockefeller Plaza, New York, runs the alphabet from AAB and Co., which is the Virginia National Bank in Norfolk, to Zyzco, which is also the Virginia National Bank, but its Bristol branch. Mellows & Co. is Bankers Trust at 9 Queen Victoria St., London. Fixfund, Funfund and Pride are among the Bank of California's fifty nominees. (Senator Metcalf inserted the *Nominee List* into the *Congressional Record* of June 24, Part II.)

Attentive Lockheed watchers may know that Kane & Co. and Cudd & Co. translate into a few of Chase Manhattan Bank's accounts. But there are pitfalls to trap the unwary. Davidson & Co. is the nominee for First National Bank of Boston, Manufacturers Hanover Trust in London and also the Farmers Bank of the State of Delaware. *D. A.* Davidson & Co., which is a Montana investment firm, chose as its pseudonym dear old Dad & Co.

The tail-wagging watchdogs on regulatory commissions often don't even know whom they are supposed to be regulating. Commissions ask corporations to identify their principal stockholders. The reporting requirement varies. The Federal Power Commission, for example, asks electric power and gas pipeline companies to name the ten principal security holders. The Interstate Commerce Commission asks for the top thirty. Whatever the requirement, the response is usually meaningless, because the companies habitually list nominees rather than beneficial owners. The Commissions simply let the companies get by without furnishing the basic information on corporate ownership and control. Commissions aren't interested in this subject and their staffs have neither the time nor the temerity to pursue the question.

About three weeks ago we walked down Capitol Hill to the Securities and Exchange Commission. The new commission headquarters looks out over quiet, cavernous Union Station, so it was appropriate that we inquire of the SEC regarding the ownership of the companies which formerly provided the American public with railroad passenger service. We already knew that conglomerates—Rio Grande Industries, Northwest Industries, Kansas City Industries and the like—had added major railroads to their investment portfolios and had undisputed control of the railroads. What we sought to determine from the SEC records was the ownership of the third generation in the corporate family tree—the grandfathers who through holding companies control the railroads and thousands of other companies.

We were well received and guided through requested files by an experienced staff attorney. But neither he nor we could find the answer to the big question. Companies sometimes disregarded the SEC's question on corporate ownership. In other instances "Kane & Co." and the other street names hid the beneficial owner. We learned that a lot of railroad holding companies have moved into executive stock options in a big way, now that they have escaped what little regulation of options they formerly were subject to at the ICC. We learned all about the cost and number of railroad ties and cabooses. But we couldn't find out who owned the companies.

Like other regulators and trust busters in Washington, our able guide was unaware of the *Nominee List* and its potential usefulness in breaking the Corporate Code. Had he known of it he might not have been able to get a copy. The publisher doesn't push it. Last spring a Tucson attorney, Stuart Herzog, tried to obtain a copy. He represents consumers in the Tucson Gas and Electric rate case and wanted to discover whether large industrial customers of the utility, who enjoy much lower rates than his clients, owned part of the company. The American Society of Corporate Secretaries told him distribution of the list was limited to the membership. The managing editor of a string of suburban Washington newspapers, W. J. Elvin III, received a similar response this summer. He then asked for the membership list to which the *Nominee List* is sent. No, he was told, the membership list is circulated only to the members.

Knowledge of corporate ownership, possessed by neither government nor the public, is basic to law enforcement. The Attorney General and regulatory commissions need the information to enforce antitrust law. The Federal Trade Commission, which is contemplating some ground rules for truth-in-ecology ads (and needs some encouragement and support in this effort), needs to compare the pollution in Florida by Rayonnier with the ads of its par-

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ent, ITT. Congress, if serious about the expressed concern of some members and committees regarding the energy crisis, needs current data on the acquisition by oil companies of coal companies, uranium companies, mineral leases and options on rights to water in federal reservoirs.

And Congress needs to know the relationship—through both ownership and interlocks—between those oil companies and what we perhaps improperly term the railroad conglomerates, such as the Union Pacific Corporation and Burlington Northern. They are primarily land and mineral companies, now free at last of the bothersome business of transporting the public and able to devote all energy to making the maximum profit from natural resources and real estate. Glancing at the back of one SEC file, we saw that a subsidiary of Union Pacific Corporation and a subsidiary of Eastern Gas & Fuel Associates have just created Rocky Mountain Associated Coal Corporation. It purchased the Reliance Coal Mine, a strip mine in Wyoming, and plans considerable coal development.

Knowledge of corporate ownership is also critically important to achieve the fundamental objective, generally agreed upon, of changing policy by working within the system. Public policy is determined by the private as well as the public sector. The two methods relevant here by which private corporations determine public policy are through withholding information and through cumbersome administrative procedures which exclude reformers and protect and perpetuate corporate owners and managers.

Consider the procedures for an annual stockholders' meeting. The agenda and the candidates are determined well in advance by the corporate management. Great effort and considerable expense, months prior to the meeting, are required to obtain consideration of the most modest proposals that have not been offered by management. If the attempt to get on the ballot is successful, identification of the voting stockholders and timely communication with them is difficult or impossible. At the meeting, company management counts the proxies it has received from Kane, Cudd, Cede* and all those other nebulous nominees, casts them for its candidates and proposals, winning in a 99 per cent landslide vote.

The overwhelming vote for itself is then publicly construed by the corporation as a ringing endorsement of its past activities and a mandate to continue doing whatever it decides to do. "Your management is most grateful for the Shareowners' continued evidence of support. [Shareowners and Stockholders are capitalized to make them feel wanted.] The thirteen incumbent directors were re-elected and independent auditors for 1971 were approved."

We quote above from Virginia Electric and Power's June 20, 1971 report to Shareowners (again with a capital S), but the procedures and results are typical. The directors, of course, had no opposition; nor did the "independent auditors" who were designated by the board of directors and simply ratified by proxies. *The corporate election process in America today is as rigged as elections are in the Soviet Union, the outcome as predictable, and the accompanying propaganda as self-serving.*

That is one reason why the sons and daughters of corporate executives turn away from Westchester, preferring to leave the Establishment, perhaps to become part of the tremendously important effort to inject democracy into the totalitarian corporation state.

Ralph Nader's Washington-based Center for the Study of Responsive Law and Public Interest Research Group, along with the Project for Corporate Responsibility—which spearheaded efforts to change General Motors from within—have led the way. But there are similar cadres within environmental groups and universities. In the latter case the work is usually done by students or young faculty members who have chosen not to grab for the ring that pulls hundreds of professors into consultancies for industry and corporate directorships, from which they contribute to the problem rather than its solution.

It has been more than thirty years since the last detailed study was made of economic and financial concentration. That study was undertaken by the TNEC—the Temporary National Economic Committee headed by the late Sen. Joseph C. O'Mahoney (D., Wyo.). By 1968, the 200 largest manufacturing corporations controlled a share of assets equal to that held by the top 1,000 corporations when the TNEC made its final report in 1941.

The Federal Trade Commission reported two years ago that the top 200 industrial corporations control more than

Senator Metcalf's S.J.R. 113, introduced May 5, 1971, would establish a special Senate Committee to investigate economic and financial concentration. The committee would be composed of a chairman plus two members each from the following Senate committees: Agriculture and Forestry; Banking, Housing and Urban Affairs; Commerce; Finance; Government Operations; Interior and Insular Affairs; Judiciary; Labor and Public Welfare. Members would be selected by Majority Leader Mansfield and Minority Leader Scott.

The committee would be empowered to study and investigate the extent of concentration of economic power in and financial control over the production of goods and services and would have subpoena power. The committee would make a final report, and refer recommendation to appropriate standing committees of the Congress, by January 31, 1973.

The resolution is now in the hands of Senate Judiciary Committee, whose members are: James O. Eastland, Chairman (D., Miss.); John L. McClellan (D., Ark.); Sam J. Ervin, Jr. (D., N.C.); Philip A. Hart (D., Mich.); Edward M. Kennedy (D., Mass.); Birch Bayh (D., Ind.); Quentin N. Burdick (D., N.D.); Robert C. Byrd (D., W. Va.); John V. Tunney (D., Calif.); Roman L. Hruska (R., Neb.); Hiram L. Fong (R., Hawaii); Hugh Scott (R., Pa.); Strom Thurmond (R., S.C.); Marlow W. Cook (R., Ky.); Charles McC. Mathias, Jr. (R., Md.); Edward J. Gurney (R., Fla.).

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60 per cent of the total assets held by all manufacturing corporations. Insurance, oil, real estate, banking, utilities and industrial giants are tightly interlocked, through directors, banks and stock ownership. Control or mere influence on public policy slip further and further away from both the public and its elected representatives, while the decision makers of the corporate state think up new names to hide behind. That is why it is time for the Senate to institute a special committee to investigate economic and financial concentrations, as proposed in Senate Joint Resolution 113, now before the Senate Judiciary Committee. Change from within the system depends upon revelations of facts on ownership and control which the public has a right to know. Armed with that information we can proceed to reshape our institutions so that they will be responsive to the needs of our times. □

ASSASSINATION INVESTIGATIONS

THE IRREGULARS TAKE THE FIELD

FRED J. COOK
Mr. Cook, a long-time contributor to The Nation, *is the author of many books, including the recently published* The Nightmare Decade: The Life and Times of Senator Joe McCarthy *(Random House).*

The board of directors of the Committee to Investigate Assassinations sat around a circular table in a Washington law office recently and discussed plans for an ongoing inquiry into the three assassinations that have shaken the American political system: those of President John F. Kennedy, Dr. Martin Luther King, Jr. and Robert F. Kennedy. This group of volunteers, formed to press inquiries into the assassinations beyond the point at which official probes have stopped, is unprecedented in the American experience. When President Lyndon B. Johnson appointed the Warren Commission to investigate the death of President Kennedy in 1963, he remarked that there had been a century of controversy over the assassination of President Abraham Lincoln and he did not want that to happen again. He wanted, so he said, all the answers; but the Warren Report, so widely and warmly praised when it was issued, turned out on closer examination to be specious, and full of rationalizations to support the instant official verdict that Lee Harvey Oswald had been the lone assassin. A public storm broke when a number of critical articles and books appeared in 1966, and public opinion polls soon showed that a majority of the American people did not believe the conclusions of the Warren Report.

The official attitude was then, and remains today, one of indifference and lethargy—at times mounting to opposition—toward any further attempt to discover the full truth, which, in the opinion of even some leading public figures, is not to be found in the Warren conclusions. Many Americans found this official inertia intolerable. A highly popular young President had been gunned down in Dallas in mystifying circumstances—and yet it seemed no one wanted, dared or cared enough to uncover the whole story. This situation led in 1968 to the formation of the Committee to Investigate Assassinations.

Learning from the investigations into Lincoln's murder, which produced conflicting theories for decades, this committee is designed to bring under one tent the most responsible assassination researchers across the nation. Its main purposes are to dig for fresh facts, to evaluate and fit together the mountain of details and clues that already exist, and to keep up a steady campaign of legal actions against official bodies that would prefer to close all doors to further inquiry.

This novel committee exists because of the energy and persistence of Bernard (Bud) Fensterwald, Jr., a former aide to the late Sens. Estes Kefauver and Thomas C. Hennings, and one-time counsel to former Sen. Edward Long's invasion of privacy committee. Among those on the board of directors are former FBI agent William Turner; Prof. Richard Popkin, who developed evidence of "two Oswalds" in Dallas; Richard Sprague of Hartsdale, N.Y., a computer expert who has made a study of assassination photographic evidence; John Henry Faulk of Texas, whose radio career was blighted when he became a victim of the McCarthy witch hunt; Fletcher Prouty, a former Air Force intelligence officer, now connected with a Washington bank; and Paris Flammonde and myself, a couple of writers.

Fensterwald was born into a family of wealthy Nashville clothing merchants, and was educated at Harvard, from where he was graduated in 1942, with a degree *magna cum laude* in international law.

After the war, when he served as a Navy lieutenant in the Southwest Pacific, Fensterwald returned to the study of international law at law school, receiving a master's degree in the subject from the School of Advanced International Studies. He then headed for Washington and a career in the State Department.

One of his first jobs was to put together a defense for some of the expert old China hands who had been maligned by Sen. Joseph McCarthy. Another assignment sent him to Capitol Hill to lobby against the Bricker amendment, which would have crippled the Presidency by returning practically all foreign policy decisions to Congress. The amendment was narrowly defeated in the Senate, and Fensterwald is still proud of his part in the victory. He says: "It [the Bricker amendment] would have returned us to an era like that under the Articles of Confederation."

While working against the amendment, Fensterwald had become close to Senator Kefauver, one of the few outspoken opponents of the bill. With the State Department demoralized by McCarthy's antics, he decided to throw

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in his lot with Kefauver, and he traveled with the Senator as speech writer and foreign policy adviser during Kefauver's Vice Presidential campaign in 1956.

An incident of that campaign was to come back to haunt Fensterwald. Kefauver made a speech in Dallas at the end of a hard week of campaigning. He had intended to stay in the city overnight, flying out the next morning. "But a high Dallas police official—I can't remember now just who he was—came to me and said, 'I think you had better get your man out of the city tonight. I don't know whether we can protect him here,' " Fensterwald recalls. "He was quite emphatic about it, and that was enough for me. I told the Senator we had better change our plans, and we got the first plane out."

After the campaign, Fensterwald spent two years as administrative assistant to Sen. Tom Hennings. Then he joined Kefauver as staff director of the Subcommittee on Antitrust and Monopoly, helping direct the hearings that exposed the intricate price-fixing conspiracy in the electrical industry. When Kefauver died, Fensterwald became chief counsel for Senator Long's invasion of privacy probe.

The hearings he conducted on the snooping into private lives by a variety of federal agencies raised a storm at the time, one that still echoes in today's further disclosures. But, as Fensterwald says, with a bite in his soft voice, these hearings were also "the ones that did us all in." A *Life* article, based on an illegal leak by Internal Revenue of tax files, portrayed Senator Long as splitting fees with a Teamster attorney, and the broad-jump inference was drawn that some of the hearings had been tailored to assist the imprisoned Teamster chief, James Hoffa. Fensterwald insists that he had leaned over backward to avoid this (a contention I know to be true regarding at least one bit of potential evidence); but Senator Long, badly spattered, was defeated for re-election. With all his horses shot out from under him, Fensterwald decided at this point to go into private law practice and to turn his energies to an investigation of President Kennedy's assassination.

"Like a lot of others," says Fensterwald, "I had been interested in this from the first, but I really began to get involved in 1967 when I went into New Orleans to see Jim Garrison. I was there on another matter entirely, but Garrison—it's typical of Jim—spent the whole afternoon talking about his Kennedy investigation, and the more he talked, the more interested I became."

Back in Washington, Fensterwald began to study with greater care the Warren Report and the accompanying twenty-six volumes of testimony. He also talked to a wide circle of influential friends on Capitol Hill. There are those in Washington who will tell you that Fensterwald has a brilliant and disciplined mind that could have carried him far in the State Department had the chips fallen differently; but, in any event, there can be no question about his contacts. Inscribed pictures of sixteen prominent men line his walls. Those of Kefauver and Long are in places of honor, but conspicuous also are pictures of Birch Bayh, Philip Hart, Edward Kennedy, Everett Dirksen and Lyndon Johnson. Fensterwald recalls:

> I tried to interest some of these men in the Senate, many of them good friends of mine, in doing something about the Warren Report. I got no response at all, largely, I think, for two reasons: the great regard a lot of these men had for Chief Justice Earl Warren, and the fact that other distinguished members of Congress, like Sen. Richard Russell of Georgia, had their reputations on the line—and so nobody wanted to mess with the case.
>
> I talked to Senator Long about it. I'm sure that he, like many of the others, didn't believe the Warren Report, but he didn't think anything could be done about it and he thought that, politically, it was suicidal. He was sympathetic to what I was trying to do, but that was it.

The assassinations of 1968, those of Dr. King and Robert Kennedy, determined Fensterwald's course. He had come to believe—a belief he still holds—that the failure to solve beyond doubt President Kennedy's assassination in Dallas meant that there would be other assassinations. The events of 1968 came like a confirmation of his private conviction.

"I figured I had to do this," he says, explaining his decision to devote his own time, energy and no inconsiderable amount of money to the cause. "I thought somebody had to be doing it, and I thought my training as an investigator qualified me better than most. In addition, I had held hearings all over the country, and I had contacts with people in law enforcement.

"My aim was to get all the responsible critics of the Warren Report under one tent, to pool all information researchers had unearthed across the country. And I thought that, if this was done, we would be able to raise money to finance a really professional investigation."

I had first met Fensterwald when he was counsel for Senator Long's invasion of privacy committee [see Cook: "Law Enforcement Underground," *The Nation*, December 20, 1965]. I met him again in September 1968, when he was in New York and on one leg of an 8,000-mile tour that took him to Los Angeles, Dallas, New Orleans, Miami and Memphis. One of his first stops, in Miami, had shaken him; but he was uncertain at the time how much importance he should attach to it.

The late Walter E. Headley, Jr., chief of police in Miami, who had a national reputation as a tough law-and-order cop (former President Truman once called him "the best police chief in the country"), contended that he had tried to warn federal agencies for nine months before Dallas that a serious assassination conspiracy was aimed at President Kennedy. Headley had reason for his concern. His detectives were working with an informer who had traveled to New Orleans, Indianapolis and other cities with a leading segregationist, and who had reported on a hate-crazed fringe that talked wildly of assassination.

When President Kennedy was scheduled to visit Miami on November 18, 1963, Chief Headley became deeply alarmed. Detective Sergeant C. H. Sapp, commanding Headley's intelligence unit, had a motel room wired for sound, and the informer inveigled the segregationist leader into a tape-recorded conversation. The segregationist described almost to the letter the events that were so soon to occur in Dallas: a high-powered rifle would be taken, disassembled, into a high office building; if the Secret Service wasn't suspicious and wasn't checking every building on the motorcade route, the President would be shot; and right afterward, "they will pick somebody up . . . just to throw the public off. . . ."

The tape recording so upset Chief Headley that he at

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once notified the FBI and the Secret Service; and when President Kennedy came to Miami on November 18, the originally proposed motorcade was called off, the President was lifted by helicopter to the site at which he spoke, then was airlifted out again and whirled away from the city. Yet no mention of all this is to be found in the Warren Report or in its twenty-six volumes of evidence; and when Fensterwald visited the Miami police in 1968, they told him that he was the first investigator to inquire about what they knew.

Fensterwald's 1968 nationwide tour succeeded, as he had hoped, in persuading the more responsible researchers to pool their efforts. In Dallas he found that three of the city's most respectable citizens had devoted almost every hour of their spare time since the assassination to interviewing witnesses and running down clues. That work, persevered in for almost eight years, has produced a 12,000-card index file covering virtually every facet of the Presidential assassination.

In November 1969, during a trip abroad, Fensterwald turned his attention to certain mysterious aspects of the King case that had arisen in connection with the arrest in London of James Earl Ray, another alleged "lone assassin." What interested Fensterwald were some wispy strands of evidence indicating that, both in the United States and in London, more than one man had used Ray's alias of the moment. The laying of multiple "Oswald" trails had been baffling in Dallas, and the same technique seemed to have been followed in the assassination of Dr. King.

In the pre-assassination period, Ray had been using the alias of Eric Starvo Galt. While Ray was in California, a man telephoned the Alabama Highway Patrol for a duplicate driver's license for Eric Starvo Galt, claiming the original had been lost. The license was mailed to Ray's former boardinghouse address in Birmingham; it was picked up there and the small fee mailed back. Yet, as a doctor's records and those of a bartender's school showed, Ray had been in California at the time.

The alias used by Ray in London had been another highly unusual one—Ramon George Sneyd. Yet again, it appeared, someone other than Ray had been using this novel name, a technique that resulted in infinite confusion.

One indication of a Sneyd-Ray double snafu emerged from the tanglefooted announcement of Ray's arrest. Scotland Yard, which is supposed to be as infallible as the FBI, originally announced that Ray was arrested at 6:15 A.M., June 8, 1968 after disembarking from a Lisbon flight and while waiting to transfer to a Brussels plane. London newsmen, who interviewed the arresting officer, quoted him as saying he had spotted Ray during a "pre-breakfast" tour of duty. Later, the official version changed. The time of the arrest was put at 11:15 A.M., but Scotland Yard still insisted, months later, that Ray had arrived on a Lisbon flight.

The puzzle about all this is that the Ramon George Sneyd who became the real James Earl Ray in later official versions was living in a small London rooming house called the Pax at the moment the original official announcement had him being arrested at London's Heathrow Airport. As the official version finally jelled, it was the Pax's Ramon George Sneyd who left his room about 9:30 A.M., went to the airport and was picked up there while trying to board a Brussels flight.

Fensterwald tried to unravel the mystery, but ran into a wall of official silence at Scotland Yard. He had better luck, however, with the landladies of London who had encountered men calling themselves Ramon George Sneyd and who described for him two individuals whose life styles marked them as totally different men.

Mrs. Katherine Westwood was proprietress of the Heathfield House, where a man named Sneyd had stayed. He had occupied Room 3C from May 16 to May 28; he had then moved to the New Earls Court Hotel, and from there apparently to another undiscovered rooming house. According to Mrs. Westwood, her Sneyd left daily at about 10 A.M., was gone all day and returned around midnight. He was a calm man; he showed no signs of being nervous or worried. Shown pictures of Ray, Mrs. Westwood said they "did bring the man back to mind," but she couldn't be certain her Sneyd was really Ray.

Take now, by contrast, the account of Mrs. Anna Thomas, proprietress of the Pax Hotel at 126 Warwick Street. Her Sneyd appeared on the doorstep during a driving rainstorm on June 5. He was accompanied by a tall blond man who said nothing. Mrs. Thomas got the impression that Sneyd had just flown in from Canada. He seemed extremely tired and clutched in his hands a sheaf of magazines and newspapers. Sneyd told Mrs. Thomas that he would be receiving mail and phone calls—and he did. Every time she saw him, his eyes were hidden behind large dark glasses. Unlike Mrs. Westwood's Sneyd, Mrs. Thomas' Sneyd seemed secretive, jumpy. He never left his room for more than a few minutes at a time. Mrs. Thomas considered him "cheeky" and said that he looked and acted as if he were drunk most of the time. His clothes were so rumpled she decided he slept in them. And after his departure, she found a plastic syringe and needle in his room, which suggested that her Sneyd was a drug addict (Ray isn't).

When police came calling on June 12, Mrs. Thomas told Fensterwald, they asked her a number of questions, but they didn't try to examine the room her Sneyd had occupied for fingerprints; they didn't bother with the syringe and needle he had left behind; they didn't examine or take the magazines and newspapers Sneyd had left in his room. In October 1968, evidently in preparation for Ray's pending Memphis trial, FBI agents, accompanied by Scotland Yard men, questioned Mrs. Thomas. When she described her roomer to them, she said, they became "very cross" and practically accused her of lying. She quoted them as admonishing her: "Forget about it completely. Never mention it again."

Mrs. Thomas added one postscript. She told Fensterwald she was positive her Sneyd was *not* James Earl Ray. There was a resemblance, she said, but it was definitely not the same man. She gave Fensterwald other details pointing to the same conclusion.

SUMMER SCHEDULE

During the summer, *The Nation* will *not* appear on the following dates: July 26, August 9, August 23.

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If Mrs. Thomas' "Sneyd" was not the real James Earl Ray, as seems probable, why did the official version insist that he was? And where did the real James Earl Ray come from? Was he, indeed, the man on the Lisbon flight? Or was he Mrs. Westwood's "Sneyd"? Or could it be that these two were one—that Mrs. Westwood's Sneyd, after vanishing into the London rooming-house maze, had gone to Lisbon and been arrested on his return? Here was an unresolvable mystery.

Fensterwald concluded, as he later reported to his committee, "that there were two Sneyds in London some of the time between May 17 and June 8." He also thought it possible that two men had been picked up at Heathrow on the morning of June 8 and that the conflicting official versions resulted from confusion about which of them was the real James Earl Ray—"the lone assassin," the man to be held. This possibility, however, could never be tested without official cooperation, and Fensterwald returned home more convinced than ever that the full truth about the assassinations had not been told.

Yet Fensterwald had no success then—and has had none since—in persuading any of the powerful men he knows in Washington to throw their weight and prestige behind an investigation into the assassination mysteries that haunt the American political scene. With reference to President Kennedy's death, he says:

> I must have talked to twelve or fifteen Senators, all of them friends of mine, but I had no luck in getting any of them to move. Among the Senators I talked to, I couldn't find many who believed in the Warren Report, but they all felt uneasy the minute I tried to talk about it and changed the conversation to something else. They just didn't want to think about it.

In September 1970, California's conservative Republican Sen. George Murphy, then seeking re-election, startled a San Francisco Bay Area audience by saying he doubted the lone-assassination "solutions" to the deaths of both Kennedys: "A President and his brother are assassinated—for what reason and by whose order I am still not certain. . . . Somebody, I think, instigated them."

Most curious of all, perhaps, are the doubts expressed by Jesse Curry, former police chief of Dallas, who was in charge of Dallas police at the time of the assassination. Of all men, he might be expected to be the most certain that Oswald was the killer and that he was without accomplices. Yet in his book, *JFK Assassination File*, Chief Curry expressed skepticism and gave his reasons as follows:

(*1*) "A paraffin test taken of the right side of Oswald's face did not reveal any nitrates from having fired a rifle," as would be expected had he fired one.

(*2*) Howard L. Brennan, the Warren Commission's star witness, the man who is supposed to have spotted Oswald firing from the 6th-floor window of the Texas School Book Depository, constantly changed his story. After first failing positively to identify Oswald in a lineup, Chief Curry wrote, "Brennan's later testimony to FBI agents apparently varied from month to month. . . ."

(*3*) Eyewitnesses who reported seeing *two* men on the 6th floor of the depository were interviewed by Dallas police, turned over to the FBI—and "No statement about the second man or mention of an accomplice appeared in the FBI report."

(*4*) As Curry told newsmen when his book was published, "We don't have any proof he [Oswald] fired the rifle. No one has been able positively to put him in that building with a gun in his hand." In a subsequent letter to Fensterwald, Curry wrote: "I would be very interested to know if you uncover additional evidence regarding a conspiracy. If I can be of any further help to you please let me know."

With this background in mind, the board of directors of the Committee to Investigate Assassinations met in Fensterwald's office late in April. John Henry Faulk had come up from Texas. Most Texans, he said, except for certain "establishmentarian types," had never believed the Warren Report and would like to see the President's assassination really solved, convinced that if the whole truth were known much of the onus would be removed from Dallas and Texas.

Fensterwald outlined the progress that had been made on a variety of projects. The major one involves putting

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all of the information about the Dallas assassination into a computer system. This has become essential because, as the Dallas researchers' 12,000-card index indicates, the number of names, clues, witnesses that thread in and out of the Dallas story represent a bewildering maze beyond the capacity of any human brain to contain and understand.

The first object of the computer system is to catalogue the associations and activities of persons turned up in the official investigation. The computerized system, it is expected, will be able to give instant answers to questions such as these: Were two persons acquainted? Were they in the same place at the same time? Did they belong to the same organizations? Did their explanations of their whereabouts and activities conflict?

Since the committee has never been able to attract more than a few contributions, since its treasury is chronically bare, this work must be done by volunteers. The first 1,000 computer cards were key-punched by girl volunteers last summer; another 2,000 are being prepared now. One computer expert rises sometimes at three o'clock in the morning to feed information into a computer that he knows will be available at that time.

Many efforts have been made to ridicule the committee's work and to create a public impression that only crackpots still concern themselves about the assassinations. A favorite tactic of the late Allen Dulles, former director of the Central Intelligence Agency and a Warren Commission member, was to object that critics "haven't come up with anything new." If Oswald didn't do it, who did, he would ask, as if the critics were irresponsible if they couldn't provide the answer. But every day of the week juries acquit defendants whom, on the evidence, they find not guilty. They are not expected at the same time to tell the prosecution who *was* guilty. The reasons are obvious: jurors, like the critics of the Warren Report, have no authority to investigate; they have no subpoena powers, no detective force at their command.

The committee's files are loaded with leads and information, much of it in affidavit form, that any thorough and conscientious official inquiry could pursue. As is always the case in criminal investigations, some leads that look promising would wash out after full investigation, but it is hard to believe that instance after instance in which there is evidence of lies, deceit and shadowy undercover double-dealing would not in the end turn up some matters of substance.

Take, for example, this single instance, typical of many, of a trail ignored or not pursued in the official Dallas inquiry. In October 1963, a young man popped into the Lincoln-Mercury agency in Dallas and got a job as a salesman, after submitting what appeared to be excellent references from a New Orleans agency. He worked for the Dallas firm up to the day of the President's assassination, but he never sold a car.

This Dallas agency, it so happened, was the one that supplied all the cars for the Presidential motorcade; it was also the one where a man giving the name of Lee Harvey Oswald came car-shopping, confiding that he would come into considerable money in November and test-driving a sales model in the most reckless fashion (Oswald was supposed to be unable to drive). As November 22 neared, the young salesman about whom the agency knew very little asked his bosses for the loan of a car. He had to make an urgent trip to California. After much discussion, it was arranged that he should take a new car and deliver it in Los Angeles. He was to leave Dallas on the afternoon of November 22. However, he did not show up for work that morning. About 1:45 P.M. he ran into the agency. He was dripping wet, his face ashen; and he hurried into the men's room, where he was violently sick. He had driven the car home the night before; it was recovered from a parking place in the area of the grassy knoll overlooking the assassination site. The young salesman himself was picked up by the police, held for some twenty-four hours, then released after the entire guilt for the deed had been fixed on Oswald.

Subsequent investigations showed that the references with which the young man had impressed the auto agency were false. There was evidence that he had stayed in a YMCA with Oswald. In Dallas he, like Oswald, had talked an ardent pro-Castro line; but after he left Dallas and went to West Virginia, he was noted for making just as ardent right-wing speeches. He had received an honorable discharge from the Air Force, where he had been rated an expert marksman. When a volunteer investigator for the committee questioned him and began to press him on the inconsistencies of his story, his eyes hardened and he warned the investigator to stop bothering him and get out of town—or else.

And then there is the matter of how the Secret Service behaved in Dallas. A former veteran intelligence agent explained to the committee in its April meeting that there exists "a book" which prescribes exactly the manner in which Presidential motorcades are to be covered. The question is: why wasn't "the book" followed in Dallas? Only four days earlier in Miami, thanks to the insistence of Chief Headley, "the book" had been followed to the letter and the President had been given the most thoroughly protective "cover." In Dallas, the "cover" was not supplied.

"Secret Service rules are positive and exact," the former intelligence agent says. They are so exact that they define the precise rate of speed that makes the difference between coverage and noncoverage. If a motorcade is going faster than 44 miles an hour, it is not necessary to cover every rooftop and every building; at any slower speeds—"the book" is rigid—everything must be covered. This agent says:

> Now, I can't give you "the book," but I have had it in my hands. I personally have had the training of agents on the procedures to be followed, and I have done it from "the book." Remember, in a case like this, Secret Service forces may be beefed up fifty times, or 500 times, by agents drawn from other government forces. The only way an assassination like this can happen is if "the book" isn't followed. That's what happened to Diem; that's what happened to Trujillo—and I *know* what happened to Trujillo. Once the guy's cover is withdrawn, it's going to happen.

"The book," according to this agent, decrees a cover for every rooftop and every window overlooking the route of a slow motorcade. Even machine guns will be placed on rooftops overlooking rows of dangerous windows; they may not be visible to the average viewer—but they will be there. Every office in every office building overlooking the mo-

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torcade route must be examined thoroughly. If an office is unused, it must be locked and sealed. Agents are furnished with walkie-talkies and, minutes before the motorcade passes a given point, they must tour the halls again, making certain that the seals are intact on each locked room.

"The whole thing is a science and a nice one," the agent says. "And as you know, in a bureaucracy, once 'the book' is set up, it is much easier to do things by 'the book' than not to do them that way. It would take some powerful force to change this, to remove 'the cover' and do it another way."

Yet, in Dallas, as the Warren Report makes clear, there were no Secret Service agents in the entire area of the School Book Depository and the grassy knoll; President Kennedy simply was not given the kind of protective cover that, as the pictures in almost any newspaper file will demonstrate, has been provided for other Presidents in other motorcades in other cities.

There is another indication that something odd was happening in Secret Service. Jerry Bruno was the experienced advance man who supervised speaking and crowd arrangements for the Kennedys. He tells in his book, *The Advance Man*, how he tried to make arrangements for President Kennedy's visit to Dallas. He found that the conservative Democratic machine headed by Gov. John B. Connally wanted the President to speak in the Dallas Trade Mart with only fat cats in attendance. Bruno disliked the idea and decided the President should speak in the Women's Building auditorium, which seats 4,000 and could accommodate the common people. But Bruno had to circumvent Establishment pressure for the Trade Mart site, and he did it very neatly—or so he thought. He writes:

> My idea—and I'd done it before on political advance—was to get the Secret Service to veto the Trade Mart on security grounds. That way there was nothing Connally could do about it, and we would have to go to the Women's Building. I asked Jerry Behn, the head of the Secret Service at the White House, to pass the word to the Texas agents to wrap it up. But somehow or other the word never got through. We heard back from Texas that the Secret Service had O.K.'d the Trade Mart as acceptable from a security point of view.

Bruno's plan had been sabotaged. It was, as he points out, a key decision. Had the President been going to speak at the Women's Building auditorium, his motorcade would have rolled along straight streets at a good rate of speed; there would have been no necessity to make that slow, intricate turn in front of the Texas School Book Depository, fringed with its grassy knoll—the perfect setup, as it turned out, for assassination.

Out in California the committee keeps in touch with a number of researchers who are pursuing various leads in the Robert F. Kennedy assassination. Much of the material gathered so far, however, requires further investigation. On the other hand, the case of James Earl Ray seemed to offer a better opportunity for a legal challenge of the official verdict, and it is this case in which Fensterwald and the committee have been most active.

Ray pleaded guilty to the murder charge in the King case in a Memphis courtroom on March 10, 1969. In a brief court travesty that the press of the nation promptly dubbed "the minitrial," Ray felt impelled, however, to throw a wrench into the smoothly oiled plea-copping performance that was to bring him a ninety-nine-year sentence. He protested to Judge W. Preston Battle that he did not agree with FBI Director J. Edgar Hoover and Atty. Gen. Ramsey Clark that there had been no conspiracy. Here was the crux of the case, and Ray certainly was in a position to know. He had lifted the lid on Pandora's box. Would officialdom peep? It would not. Ray's attorney of the moment, Texas lawyer Percy Foreman, leaped into the breach, reminding the court smoothly that the only issue was that Ray was admitting his own guilt. Was he? Yes, Ray said, and the proceedings rolled smoothly on. The usually temperate *New York Times* erupted in an editorial roar, branding "the aborted trial . . . a shocking breach of faith with the American people. . . . Nothing but outrage and suspicion can follow the handling of this long-delayed and instantly snuffed-out trial. . . ."

Packed away in Brushy Mountain Penitentiary in east Tennessee (from which in early May he made an attempt to escape), James Earl Ray looked with distaste at those ninety-nine prison years stretching before him. He denounced Percy Foreman for twisting his arm and conning him into copping a plea instead of standing trial as, Ray insisted, he had wanted to do. The record seems to bear Ray out on this point. Foreman himself later acknowledged that he had told Ray any Memphis jury that would try him would be set to "burn your ass," disregarding centuries of precedent that say Southern juries rarely convict, let alone "burn," white men who kill Negroes. Ray's dismissal of Foreman and his clamor to have his case reopened gave Fensterwald his chance, and Fensterwald became, in time, Ray's eleventh attorney.

In 1970 Fensterwald filed a motion in Shelby County Criminal Court in Tennessee, asking for an "evidentiary hearing" on Ray's contention that his constitutional rights had been abridged by undue pressure exerted upon him by Foreman. In a deposition, Foreman under oath admitted that he had bargained directly with Judge Battle for the guilty plea and ninety-nine-year sentence. "I didn't talk to the prosecution about a plea," he testified. "Judge Battle was running this lawsuit."

Foreman said that he had met with Judge Battle "many times, six or eight times," and Fensterwald argued that a judge who becomes so involved is, in effect, not a judge but an arm of the prosecution. He cited the American Bar Association's *Standards Relating to Pleas of Guilty*, which says flatly: "The trial judge should not participate in plea discussions." Fensterwald added:

> In addition, Petitioner alleges that Foreman's direct negotiation of the guilty plea had to raise in the Petitioner's mind the question of whether he could possibly receive a fair trial were he to go to trial before Judge Battle with Percy Foreman as his counsel. This affected the voluntariness of his plea. At the same time, this history of prior negotiation between Judge Battle and Percy Foreman also made it difficult, if not impossible, for Judge Battle to objectively determine the voluntariness of the guilty plea when it was offered.

Unfortunately, Judge Battle had died with Ray's appeal papers on his desk. Judge William Williams, who inherited the case, rendered an oral decision after almost

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a year of delay. He refused to grant Ray a hearing. He argued, in effect, that Ray's rights would have been violated if an agent of the state had coerced him into pleading guilty, but that it wasn't against the law of Tennessee if his own attorney applied such pressure.

"We are taking an appeal to the Tennessee Court of Appeals in Jackson, Tenn.," Fensterwald says, "and we will fight the case all the way to the Supreme Court of the United States if we have to." In preparing the appeal, Fensterwald has talked many times to the enigmatic habitual criminal whose career in crime had been a series of almost ludicrous failures until he escaped from Missouri State Prison and emerged months later in the King assassination as both a supershot and superbrain, two attributes his lifelong story suggests he never possessed.

"Originally, he was very tight-mouthed about everything," Fensterwald says, describing his experience with Ray. "But, remember, he had had a pretty bad experience with lawyers. The first few times I saw him he told me nothing. Now he still keeps silent about the key points we are interested in, but again, remember, he is still in prison and it might not be too healthy for him to talk."

In studying Ray's case, Fensterwald and his young legal assistant, James Lesar, eldest son of the dean of Washington University Law School, made several trips to Tennessee, and several of their discoveries are suggestive. "In the nine months Ray was in solitary confinement, from the time he was flown here from England until he pleaded guilty, he never saw the light of day, and he could never sleep in darkness," Fensterwald says. "Twenty-four hours a day there was an electric light burning into his eyes in that cell. And the cell in which he was confined is now used as a special punishment cell."

Attempts to examine some of the basic evidence in the case were frustrating. Arthur J. Hanes, the former Mayor of Birmingham and Ray's original attorney, had asked for and been granted access to all official records detailing the motels and rooming houses in which Ray had stayed from the time of his Missouri escape until his arrest in London. "But when we asked for the same information, all we were allowed to see was Ray's registration in the Rebel Motel in Memphis," Fensterwald says.

A bit of evidence that was widely ballyhooed in the press at the time of Ray's arrest was the windowsill taken from the bathroom of the Memphis flophouse from which, according to the official version, Ray fired the shot that killed Dr. King. This windowsill was supposed to have a dent in it that perfectly matched the curvature of a rifle barrel. Though a rifle kicks up, not down, when a shot is fired, this dent was interpreted by the prosecution as a vital exhibit, demonstrating that the fatal shot had been fired from the bathroom window. "Well, the windowsill is gone; it has just disappeared," Fensterwald says. "We were allowed to look at all the exhibits introduced in court. The others are there—but not the windowsill."

Summing up his efforts in the assassination cases, Fensterwald shakes his head and smiles wryly. "It sure doesn't help the law business," he confides. "People don't want to make Uncle Sam mad." And he continues to be amazed at the sometimes positively hostile reaction on Capitol Hill. Edward Kennedy's attitude especially disturbs him. "I haven't talked to him directly," Fensterwald explains, "but I have to some of the people close to him. I'm told he's violently opposed to what I'm doing. I can understand that he might not want to become involved, but why should he be violently opposed? I don't get it."

As for the general atmosphere, ranging from inertia to positive hostility on Capitol Hill, he gives this interpretation: "There seems to be an inherent fear that, if you do open all this up, you may find agents from some federal agencies mucking around in the background of the whole business. And this is just too much for them to stand; they refuse to face the possibility."

This, in Fensterwald's opinion, is the dark shadow that inhibits action; but he is convinced, as are many members of his committee, that unless there is action the tragic record of the past may well be repeated in the future. □

A Fair Trial for Angela Davis?

JEROME H. SKOLNICK and STEVEN A. BRICK

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Ordinarily, when we speak of a fair trial, we think of the defendant's ability to retain competent counsel and investigators, of being able to exclude illegally seized evidence, or coerced confessions. The Angela Davis-Ruchell Magee case is out of the ordinary. Magee claims he cannot obtain a fair trial in the courts of California. He points to his seven-year-old conviction on a $10 kidnap-robbery charge in Los Angeles and says his guilty plea was fraudulently obtained. He believes that the California courts, district attorneys and appointed counsel want to railroad him to the gas chamber to silence him from protesting his fraudulent conviction. Miss Davis, on the other hand, now says she believes it may be possible for her to receive a fair trial in California courts, although she may not have thought so when she left the state in August 1970. Still, it is questionable that a fair trial is possible for her. The issue must be analyzed in terms of the ability of the criminal justice system to deal impartially with a black, abrasively political defendant accused of serious, violent acts.

On August 7, 1970 James McClain, an inmate at San Quentin prison, was on trial in San Rafael, Calif., for assaulting a prison guard. Ruchell Magee was on the witness stand being examined by the assistant district attorney, Gary Thomas. At about 11 A.M., a young, hand-

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some, light-skinned black man entered the courtroom. After a few minutes he stood up, pointed a gun at the trial's participants and said: "All right, gentlemen, this is it." He took a weapon from a satchel and handed it to McClain. McClain walked to the bench where Judge Harold Haley was sitting and ordered him to call and instruct the sheriff to order his men not to interfere with what was going on. Meanwhile, Magee, who was appearing in handcuffs, ordered a deputy to remove them. McClain then handed a weapon to Magee. Three women jurors, the assistant district attorney and the judge were taken from the courtroom by Magee, McClain and the young man—later identified as Jonathan Jackson. The armed men also freed William Christmas, another inmate who was to appear as a witness; he joined in moving the hostages out of the building.

A witness testified that as the men were leaving, McClain said: "Free the Soledad brothers by 12:30 or they all die." The four men led their hostages to a yellow Hertz rented van, parked in a lot next to the Civic Center. The van began to move toward an exit. Two cars had arrived at the scene from nearby San Quentin prison and were positioned in the path of the exiting van. The van came to a sudden halt and there was a barrage of gunfire both from without and within the van. When the shooting stopped, McClain, Christmas, Jackson and the judge were dead. Magee, and one of the women jurors and the assistant district attorney suffered gunshot wounds. The assistant district attorney was wounded in the spine, and is permanently confined to a wheelchair. Magee recovered quickly. The woman juror sued Marin County for damages arising from the injuries she suffered.

This invasion of a courtroom is obviously shocking, yet its motives and meaning belie any simplistic interpretation. Certainly, serious crimes were committed, but it is also clear that Jonathan Jackson defined the acts as political. However misguided the means, Jackson's goal was either to "free" political prisoners, or to ameliorate prison conditions by negotiating the return of hostages. The political meaning of the events was further underlined by the indictment of Angela Davis, who was charged with kidnapping, murder and conspiracy. The penalty for these charges is death. The combination of a capital case with international political reverberations promises one of the longest, most complicated and expensive trials in history. This report attempts to summarize the progress of the case and to comment on some of the issues of politics and law in capital cases.

The Marin County grand jury indicted Miss Davis in her absence. That is not an unusual grand jury procedure, but the use of the grand jury is itself unusual in California criminal cases. There are two routes to felony trials in California, the grand jury and the preliminary examination. The prosecutor has complete discretion as to which route will be taken. In an average case, he uses the preliminary examination to convince a municipal court judge that the accused should stand trial. The preliminary examination offers the defendant a major advantage over the grand jury since the evidence necessary to bring him to trial may be tested immediately.

Moreover, the proceedings are public and he has the right to cross-examine witnesses brought by the prosecutor to prove a *prima facie* case. Cross-examination early in the proceedings gives the defendant a chance for early dismissal; if he is "held to answer," cross-examination provides a more thorough record of the witnesses' testimony for possible impeachment at trial. In run-of-the-mill cases, prosecutors don't mind cross-examination of witnesses early in the game—most prefer not to go to trial if the case is weak. Moreover, when the prosecution case proves strong the defendant may be persuaded to plead guilty, thus ending the proceedings with a minimum of time and expense. Finally, a preliminary examination permits a defendant to put forward exculpatory evidence.

Grand jury proceedings in California are usually reserved by prosecutors for cases potentially involving much publicity, or where, for a variety of other reasons, they want to control the initial evidence. From the defendant's point of view there are crucial disadvantages. The grand jury hears only one side of the case, since the prosecutor is unfettered by opposing counsel. He may ask leading questions and put words in the mouths of witnesses.

Further, the grand jury presents special problems for black politically dissident defendants. Such juries are composed of leading citizens—bankers, lawyers and businessmen. Potential discrimination is inherent when the citizens are white, as they usually are, and the defendants are black, or when the defendants are political dissidents who criticize the very sort of people sitting on a grand jury.

Yet in theory, the grand jury exists to protect the defendant. Solid and respectable members of the community presumably make a secret, impartial appraisal of evidence mustered by the prosecutor to bring an indictment. When no indictment is handed down, the potential accused need not be disturbed by knowing that he was so considered; his reputation remains untarnished, his peace of mind unmolested. When the grand jury decides to indict, however, the accused can only suffer from secrecy.

The Davis-Magee case offers one illustration. Miss Davis was confined for six months before the sufficiency of evidence against her was put before a judge. Most of this time was taken up with finding an impartial judge. All the Marin County judges declined to hear the case because they felt they could not be, or certainly could not appear to be, impartial or unprejudiced. Another judge, satisfactory to Miss Davis and her attorneys, disqualified himself after being challenged by Ruchell Magee. The next judge was unsuccessfully challenged for cause by Miss Davis and was disqualified peremptorily by Magee.

The Marin County judges declined to sit on the case for obvious reasons. Yet, how can a judge from an adjoining county or any county in California fail to be moved by the death of a sitting judge kidnapped from his own courtroom? Perhaps the only impartial judge in this case would be one who disqualifies himself. Meanwhile, the case has been widely discussed in the press. The mounting expense of the trial has placed a tremendous financial burden both on the defense and the citizens of Marin County who may ultimately decide Miss Davis' fate.

Once an indictment has been brought, it is not unusual for a number of such legal isssues as sufficiency of evidence, discovery and bail, to be raised before trial. On

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January 5, Miss Davis' attorneys moved to dismiss the indictment on grounds that the evidence was insufficient to support the charges. Primarily because of a variety of legal motions dealing with self-representation, legal jurisdiction, and claims that the judge was prejudiced, the motion to dismiss was not argued until May 27.

The argument for bail was presented on June 2, following which Judge Richard Arnason requested a probation report. The Chief Deputy Probation Officer of Marin County, in his official report to Judge Arnason on Angela Davis' suitability for bail, wrote:

> From my investigation of this case, I feel that Miss Davis, if released on bail, will not flee the jurisdiction of the court. Her alleged flight following the August 7, 1970 incident would not in my estimation preclude her from being released on bail. It is not unusual for people who are charged with criminal offenses to hide from the authorities. It is not unusual for people who have avoided the authorities, once arrested and released on bail, to appear for their court hearings. I also feel that since August 7, 1970, some significant things have happened that have a bearing on her case. She has received a great deal of support from numerous people throughout the country for her position. She is looked upon by a great number of people in this country as a leader for social reforms. There is in my estimation a commitment on Miss Davis' part to her family, attorneys and supporters who have given their time, skills and money to her case. . . . I feel that for Miss Davis to flee the jurisdiction of the court would be a great disappointment to her family, supporters and attorneys. It would also question her role as a leader for social reform. . . .

Yet bail was denied by Judge Arnason on June 15, with the following statement:

> Solely and exclusively upon the legal issue . . . I find that she is not eligible for bail under the California statutes and Constitution; not that she is not a fit person, not that she is not the type of person that would be entitled to bail.

That is a remarkable statement. Bail is a civil right guaranteed under the Constitution except in capital cases. The "fitness" of the defendant determines amount of bail, not whether it will be granted. Normally, defendants are jailed before trial because they cannot raise the amount of bail; in fact, they are imprisoned by their poverty. The Marin County probation department recommended that bail be set at $100,000 for Angela Davis, and she probably could raise that amount. Denial of bail reflects the legal erosion of the constitutional right to bail in California.

The California Constitution of 1849 guarantees the right to bail "unless for capital offenses, when the proof is evident or the presumption is great." The special California statute on bail in capital cases alters the constitutional language to: "A defendant charged with an offense punishable with death cannot be admitted to bail, when proof of his guilt is evident or the presumption thereof great. The finding of an indictment does not add to the strength of the proof or the presumptions to be drawn therefrom." By stressing "cannot," the statute seems to alter the expectation concerning right to bail. It becomes something a defendant has to show he is entitled to, rather than a right, except when guilt is evident.

The leading case-law interpretation of the statutory language further waters down the right to bail. The opinion seems to say—in arcane language of 1883—that if the "sufficiency" of the evidence against the defendant is strong enough so that a jury could reasonably bring in a verdict of guilty, even if the judge wouldn't, bail should not be granted. In argument before the court on whether Angela Davis should be admitted to bail, the prosecutor, Albert Harris of the State Attorney General's office, held that "sufficiency" meant something more than the evidence needed to indict, but not much. Howard Moore, representing Miss Davis, argued that the court ought to look to the statute and to the Constitution and that guilt needed to be "evident" to deny bail. The judge, apparently accepting the prosecutor's argument, denied bail.

The law on bail in capital cases is an anachronistic absurdity. It was framed in the 19th century, presumably with the idea that someone facing a death sentence, in a case where the evidence was strong, might flee. After all, it was reasoned, if the defendant faced execution, he would be unlikely to appear for trial. This theory not only erodes the constitutional right to bail—its truth is doubtful. Obviously, the prediction of behavior is sounder when an individual's total situation is taken into account than by a general rule governing all individuals. Moreover, time, society and knowledge are always changing. Executions rarely occur now in capital cases, so the motive for flight is reduced. We have also learned that murderers are often not a threat to the general community. At least such facts can be taken into consideration by a probation officer. But organized probation services did not exist in 1883, when the case relied on by the judge to deny Miss Davis bail was decided.

If the 1883 behavioral assumptions governing bail in capital cases are an anachronism, the law that bail is a constitutional right, *except* in capital cases, is an absurdity. Capital cases are precisely the ones where society should most fear making a mistake, and should therefore offer the defendant the most complete protection of due process of law, including the right to bail. The implications of denying bail are terribly important to the notion of a fair trial, especially in a capital case. Denial materially affects the defendant's position before the court. Despite the presumption of innocence, a jury cannot help noticing whether a defendant walks into court each day as a free man, or in the custody of a sheriff. While the impact of this factor isn't tangible, it is significant. Further, restriction of the defendant to the confines of a jail cell clearly hinders the defense preparation. The defendant is not free to find and talk to witnesses. He cannot consult with his attorneys with the assurance that their conversations are not being monitored, or merely talk with them at their mutual convenience. Ultimately, the most crucial impact is upon the defendant when, as in the Davis case, the defendant is confined to two small rooms, allowed to see only a handful of people, and constantly watched. Inhumanity aside, the defendant's capacity to assist in his or her own defense is jeopardized. Careful studies have shown that, for similar offenses, those who are free on bail fare better than those who are confined before trial.

Political defendants are further hampered by denial of bail. In the Chicago conspiracy case, the defendants were

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able to raise money by giving speeches around the country during their trial. Angela Davis' presence at rallies and meetings would be an asset to her defense fund, as well as to gaining political support for her cause.

Perhaps most important, the present rule involves the judge in a determination of the strength of the prosecutor's case prior to trial, before evidence has been tested through cross-examination. It is unlikely that a jury, even though admonished to disregard everything but the evidence presented at trial, will be unaware that a defendant has not qualified for bail. If Miss Davis is brought to trial in the custody of the sheriff, the jury may believe she was unfit for bail in the sense that she would flee or present a danger to the community; they might believe bail was denied because evidence of her guilt is "substantial." In either event, can that inference fail to influence their determination of guilt "beyond a reasonable doubt"? It is doubtful that the jury system can work fairly when a prior stigma, over and above the indictment, has been placed on the defendant. With this in mind, we turn now to the evidence against Angela Davis, to see if the additional burden of pretrial confinement can be justified.

Magee undoubtedly picked up a weapon and held it on hostages. It is not yet clear whether he was directly responsible for death or injury, or whether he had prior knowledge that the action would take place. Miss Davis' participation, on the other hand, is entirely inferential. She was not there. The joinder of the cases makes sense for the prosecution because it implicates Angela Davis with Ruchell Magee. Magee was an active participant; the prosecution must prove that Miss Davis was an accessory. Legally, she could move for a separate trial, which the judge has indicated he would grant. But a severance move has personal and political as well as legal implications. Ruchell Magee's history of imprisonment symbolizes the oppression of the poor black man by white society. For Miss Davis, severance might suggest desertion. She cannot abide that personally or politically, even though joinder tends to obsure the absence of evidence directly linking Angela Davis and Ruchell Magee.

The evidence presented to the grand jury indicting Miss Davis shows the following: she purchased the four weapons used in the escape, including a shotgun purchased in San Francisco on August 5, two M-1 carbines, and a Browning automatic pistol; a woman resembling her was seen with Jonathan Jackson by a service station attendant, on August 6, near the Civic Center, in a yellow Hertz van like the one used in the escape; she purchased a ticket at San Francisco International Airport on the afternoon of August 7 for Los Angeles; she and Jonathan Jackson spoke out forcefully at rallies and advocated the release of the Soledad brothers, one of whom is Jonathan's brother George; she was not seen publicly in California after August 7, and was arrested in New York on October 13, 1970. The prosecution contends she was attempting to escape apprehension and subsequent conviction. This pattern of individually lawful acts, alleges the state, is sufficient to bring her to trial on capital charges: murder, kidnapping, conspiracy to murder and kidnap.

Whatever evidence the prosecution may seek to introduce at trial, each act charged by the grand jury to Miss

Davis is itself lawful. Purchasing guns is lawful. Moreover, it is not unreasonable for a black militant who had received many threats on her life to purchase guns for self-protection. The state has not introduced evidence showing that she furnished the guns to Jonathan Jackson; even if she had, the state hasn't shown that she did so with the intent that they be used illegally. Indeed, newspaper stories have reported that Jonathan Jackson was her bodyguard. Bodyguards often have access to guns. Even if the woman seen in the van was indeed Angela Davis, accompanying Jonathan Jackson is not a crime. There is no question they were close associates.

Miss Davis says she initially fled because of fear and mistrust in the fairness of California officials. She had recently been fired by the university and, after investigation, the dismissal had been declared unfair by the American Association of University Professors. But Miss Davis says she decided to stay in the United States because her struggle is here and because she is innocent of the charges against her. She also feels that public support has brought her the opportunity for fair judicial treatment.

The Davis-Magee case has yet to go to trial. Miss Davis has been in custody since October 13, 1970, and has not left the confines of the Marin County Civic Center since December 23. The trial, and especially the security measures while Miss Davis is confined, threaten to raise the tax rate of Marin County. The county administrator, in resigning from office, declared that granting bail in this case would be the best possible step to insure a fair trial, and coincidentally save the county a fortune. His judgment was sound.

The legal procedures which have imprisoned Miss Davis

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and denied her bail go a long way toward defeating their purported end: a fair trial for the individual defendant and the state. Her grand jury was *de facto* segregated from her in racial, economic and political terms. Our whole judicial theory demands maximum public disclosure, and adversarial determination of competent evidence, yet the grand jury deliberations were secret and accusatorial. Miss Davis has been denied bail, although the evidence against her is inferential and untested.

Confinement is punishment. The Marin County probation department made a finding that Miss Davis now has many reasons to appear at trial, that her appearance can be insured by high bail, rather than none at all. As for being a threat to the community, her only past crime is a traffic violation. The judge finds her fit for bail but, with less logic than prudence, says that his hands are tied by the grand jury testimony.

If, in light of these circumstances, we ask, "Can Angela Davis get a fair trial?" we must answer on two levels. A model "fair trial" suggests a proceeding that is procedurally correct, with an intelligent judge sensitive to his own prejudices. The ultimate decision of guilt or innocence should be left to a jury which can comprehend the testimony given in behalf of the accused, whether it chooses to believe it or not. Miss Davis is now receiving a "fair" trial only in the sense that she employs a team of able attorneys who will vigorously assert her rights. But they are operating within a social and legal structure that is stacked against her.

In predominantly white middle-class Marin County, communism and black militancy are anathema. The much publicized rise in the tax rate attributed to this trial can hardly fail to influence the county's taxpayers, from whose ranks the jury may be drawn.

Accordingly, an analysis of the fairness of the Angela Davis trial cannot proceed on a purely legal level. It must also examine the community and racial aspects of the trial, and the peculiar but no longer unique combination of race and politics influencing the atmosphere of the trial in and out of the courtroom. Both the state and the accused have an interest in obtaining the fairest trial possible. In reality, fairness can only be approximated; we come closest to it when, while operating in an imperfect system, we strive to remedy imperfections. The worst we can do is deny their existence. □

GOALS AND LIMITATIONS

The Rise of Tenant Organizations

PETER MARCUSE

Mr. Marcuse, a partner in the Waterbury, Conn. law firm of Weisman & Weisman & Rosnick, has been actively involved in the development of low- and moderate-income housing in Connecticut. In 1968-69, he was staff attorney with the National Housing Law Project.

With the possible exception of the Boston Tea Party, consumer interests have been more the occasion for rhetoric than for direct action or organization. Supermarket picketing against high prices has never gotten far; Consumers Union is buyers' guide, not mass action, oriented; and Ralph Nader accomplishes more with publicity and lawsuits than with protest movements. Mainly middle- and upper-class families are the ones drawn to such causes, and to the somewhat related ecology crusades. Working-class families, the poor, or minority groups rarely get deeply involved, although these groups spend much more of their total earnings on consumer items than do wealthier families.

Only in one area, housing, is the picture different. Actually, housing is the largest single consumer expense for most families: generally about 20 per cent of a family's budget, but going up to 30 per cent and even 40 per cent for many poor families. (In St. Louis one of the things that touched off the famous rent strike against the public housing authority there was the discovery that one poor family was being forced to pay 46 per cent of its income in rent in the supposedly low-income Pruitt-Igoe project!) Not only is housing a major consumer item; it is purchased from visible, accessible people, landlords, on a continuing basis, by individuals who know one another as neighbors. Perhaps the surprising thing is not that a National Tenants Organization, formed in 1969 to represent the interests of tenant-consumers of housing, already has more than 700 local affiliates throughout the country, but rather that it did not happen sooner.

The source of the current impetus for tenant union organization was probably Harlem in the fall of 1963. Harlem undoubtedly displays more bad housing per square foot of ground than any other spot in the country. When to that is added an increasing frustration with official rhetoric about future improvement, the growing militancy of the black community, the liberal-civil rights receptivity to dramatic action, the appeal of the strike as a simple, direct and immediately productive way of securing dollar-in-the-pocket benefits, and the leadership and public relations talents of Jesse Gray, things are bound to happen. In fact, at the height of the 1963 Harlem strikes more than 500 buildings were involved and 15,000 tenants were not paying their rents to their landlords.

The long-range results of these early strikes still left much to be desired. Economic pressure undoubtedly forced many of the landlords directly affected to make repairs; a few judges, in the flare of concentrated publicity, rendered decisions favoring tenants that might not otherwise have been forthcoming; the tortuous, step-by-step improvement of New York's statutes and ordinances covering landlord-tenant relationships may have been accelerated a little; some administrative reforms in New York City's

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Kafkaesque building and health inspection and enforcement procedures may have been achieved. But a few months later, according to Frances Fox Piven and Richard Cloward, few traces of the great Harlem rent strikes could be seen in New York.

The traces in other parts of the country were not so obscure. Rent strikes spread, their techniques became more sophisticated, their legal rationale more fully developed, their goals more clearly defined, their statutory support strengthened, their consequences better understood by landlords as well as tenants, alternative forms for their resolution evolved. Strikes have been documented in more than sixty-seven cities, and trade publications and organizations in the real estate industry now feel it necessary to educate their members on how to deal with them.

But rent strikes are a one-shot affair; more is needed if housing conditions are to be basically altered. It is too easy for a landlord to promise repairs and changes to end a rent strike, wait till things simmer down a little, then slowly rid himself of the troublemakers and revert to his old ways. Taking a leaf out of labor's book, strike organizers in Chicago decided to try forming permanent tenant "unions" and getting signed "collective bargaining agreements" with landlords. The Harlem rent strikes of 1963 and the Chicago tenants' unions of 1966 were the direct progenitors of the National Tenants Organization (NTO).

"Outside" groups were as active as tenants in initiating the successful campaigns to organize around landlord-tenant issues in Chicago. In the summer of 1966, Students for a Democratic Society, through JOIN, succeeded in organizing three smallish buildings, more by publicity, picketing landlords' homes, etc., than by rent strikes. The agreements negotiated as a result did not last long, and one was voided in a subsequent court action. Much stronger forces were needed to pioneer more durable agreements.

The Southern Christian Leadership Conference, with Martin Luther King's personal involvement, had been active in Chicago slum areas since the Freedom Campaign of the summer of 1965. It had then formed an alliance with CCCO, the militant local coordinating group of civil rights and minority organizations that had almost succeeded in overthrowing Chicago's entrenched public school educational hierarchy. With the active financial support of the Community Union Center of the Industrial Union Department of the CIO, and with the skill and experience of Reuther's Auto Workers union behind them, tenant organizers moved into East Garfield, and found a quick receptivity to the idea of strong tenant organization. Tony Henry, later to become the executive director of the NTO, was one of the key figures in the East Garfield drive. The largest landlord in East Garfield, a corporation owning or managing more than forty-five buildings, was singled out; a start was made on organizing; and, when only five buildings were solid, a contract was demanded covering all forty-five. Rent strikes, publicity, political pressures, and behind-the-scenes activity by the national organizations involved brought results. In July 1966, a pioneering contract was signed calling for repairs, setting up a grievance machinery, preventing evictions except for cause, and spelling out the rights and obligations of the landlord to the tenant organization as well as to the individual tenants. The success at East Garfield was followed by other organizing activities, some spontaneous, some planned, which resulted in a few months in the formation of some forty-five different unions with up to 2,000 members each, and then to the formation of the Chicago Tenants Union.

The movement spread to other cities in 1967 and 1968. Cleveland, under SCLC's leadership again; San Francisco, usually to be found among communities where there is militant action; Detroit, where UAW support and the organizing tradition were powerful; Boston, Philadelphia, Milwaukee, St. Louis and Muskegon Heights, and probably twenty-five other major cities, all saw active organization, rent strikes, some successes and some failures. The Muskegon and St. Louis experiences were significant in the light of subsequent events, for they were the first organizing activities and rent strikes in public housing.

In private housing, it has proved difficult to keep tenant organizations going after the first excitement of combat is over. New organization appealed only to the most advanced of the already organized tenants; landlord relationships usually settled down to a minimally acceptable pattern; resources for really basic changes were generally not present. Nor could the formation of citywide tenants' groups really help much in individual cases. Since most private landlords were small operators of limited resources, unorganized, unsophisticated, often absentee and not susceptible to public pressures, organizing their tenants was frustrating.

But one landlord, the United States of America, has just the opposite characteristics. While technically the 2,800,000 tenants of public housing projects throughout the country pay their rents to more than 1,900 local autonomous housing authorities, their projects are built with federal funds, controlled by federal regulations, subsidized under federal formulas, and administered subject to federal standards. The resources, the political sensitivity, the number of tenants, the visibility, were all there.

First in Muskegon, then in St. Louis with the nationally publicized strike in the massive Pruitt-Igoe high-rise public housing project (the symbol for everything wrong with public housing), and then quickly in Philadelphia, New Orleans, Newark and elsewhere, public housing tenants found they could get results—or at least attention—by militant action. Public housing held the hope for solid, permanent accomplishment for tenant organizers. A national review of strategy seemed called for.

On January 26, 1969, the meeting that launched the NTO took place. The Chicago Tenants Union was the host; co-sponsors included Jesse Gray's New York Tenants Union, the American Friends Service Committee, and several others. The Friends, long one of the most sensitive and courageous, as well as soft-spoken and self-effacing, of all the organizations in the civil rights field, agreed to hire Tony Henry as director of their program, and when NTO held its first official national convention in St. Louis in October 1969, it was already an organization with more than sixty affiliate groups, filling an obvious need and with an obvious role to play.

As NTO hit the national scene, it found the ground prepared for it by two natural allies: the civil rights-black liberation movement, and the anti-poverty crusaders of the

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Kennedy and Johnson years. The riots of the late 1960s, with their deep involvement in public housing projects, and the multiple financial and social problems those projects were developing entirely by themselves, had given these allies something to sink their teeth into. With "minority representation" and "tenant participation" as their watchwords, they had already succeeded in shaking up the public housing establishment. Tenants began being elected or appointed to Housing Authorities, tenants' councils were organized and sponsored by OEO community action agencies, Congress was writing participation in planning into the modernization program, and the spirit of tenants' rights was being heard in the bleak prisonlike walls of one project after another.

But before NTO arrived, these were just local happenings. NTO tried to pull them together into a force that would be felt nationally as well. NTO filled a vacuum; the legitimacy of its voice could not be denied. Congress was calling for tenant participation, and here was an organization knocking on HUD's doors and claiming to speak for its tenants. Locally, of course, housing authorities could and did challenge NTO's legitimacy. In New Orleans and Houston, rival organizations were organized and dealt with; in Chicago, when an NTO-affiliated group claimed to speak for tenants, the authority staged an election of its own and negotiated with its victors. But on a national level there was just no one else around against whom NTO could be played off. It had to be recognized, and recognized it was.

Uniform national protection for public housing tenants, written into equitable and binding leases, became NTO's first objective in discussions with HUD in Washington. Over a period of nine months, after many more than twenty separate negotiating sessions, a new model lease was finally hammered out. It was followed by a detailed grievance procedure recommended by HUD to all local housing authorities.

Both the negotiating process and its result showed that the public housing establishment had to reckon with a major new force on the national scene from then on. The new lease differed from the traditional landlord-oriented lease used by most public housing authorities as night differed from day. The legal sophistication of the OEO-funded National Housing Law Project helped achieve the final agreement, but the political strength of NTO and its constituents, and indeed the fact that even in public housing the simple justice of the idea that a lease should attempt to protect the tenant's interest as well as the landlord's, were what finally carried the day. The National Association of Housing and Redevelopment Officials (NAHRO), the respected organizatiton of the local administrators of public housing, was invited to participate in the negotiations also. Like HUD, it found itself forced to recognize a new voice on the scene, and divided sharply within itself before finally giving, then withdrawing, then hedging, its approval of the new lease.

NTO's achievements in public housing are beyond dispute; its record in private housing is more questionable. This may not be NTO's fault; the problems of private housing for poor people may simply be insoluble within the framework of the private housing market.

The reasons are not hard to find. Slum buildings are in slum neighborhoods. The services that are needed to make them into decent housing include upgrading the neighborhood conditions. To try to supply the remedies at the building level is a tremendously expensive, and in the end probably a fruitless, task. The Garfield Tenants Union wanted to get the following from a private landlord in Chicago: closed circuit TV surveillance, intercom systems for entrances, guard service, snow removal, laundry rooms, full-time recreation and supervised play programs for children. These are either *public* services, or services required by the default of public services. To internalize these externalities may be feasible for the developer of 40,000 homes in walled-in suburban "new town" developments in California, but they cannot be provided privately

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at rents the average low-income family can afford to pay.

The economics of slum housing and of slum income cannot be organized away. If Ford had given the River Rouge plant to the UAW in 1937, it would have been a stunning success for the union. But when a Detroit slumlord turns over twenty-seven units to a tenants' union, the union finds itself inheriting insoluble problems, including lack of money to make repairs, the need to control and police the private conduct of its own members, the low level of public and private services in the area, blighting effect of other structures not owned by it, and so forth. Poor tenants have learned by costly experience that tenant ownership is no panacea. It may reduce rents only at the expense of even further deteriorating housing quality.

This is not to say that there is no future in tenant organization in private housing. First, a reduction in rents is by itself nothing to sneeze at. For some tenants at least a reduction in rents is more important than an improvement in housing. Second, in the apparent minority of slum buildings which show a cash flow profit, or in middle-income buildings in relatively stable neighborhoods, tenant ownership may improve housing. Third, tenants may not be able to take over the existing liens and mortgages on a building, collect rents comparable to those in the neighborhood, and yet have enough left over to make necessary repairs and provide the necessary maintenance. So, say the economists, slum properties are not "economically viable," even where the owner gets nothing for his equity. It might be interesting to ask whether such properties would become viable again if all mortgages and liens on them were also wiped out, where the value of the property is in fact less than their amount. But that idea is too radical in its implications to be politically feasible at this point. Whether the various schemes now being discussed for subsidized tenant condominiums or cooperatives will work out remains to be seen; without subsidies for operating costs as well as for acquisition, they may only increase the burden on poor occupants. Their single advantage then will be that those in authority can wash their hands of the problem, blaming slum dwellers for the slums which they now "own" themselves.

If NTO shies away from tenant ownership, then, its reluctance is not so hard to understand. The same causes in the long run undermine some of the strategy of bargaining to extract concessions from private landlords as a means of improving housing. NTO is finding that rent strikes and collective bargaining can be undertaken effectively only in limited instances. No wonder that NTO and its affiliates are beginning to turn their attention more toward public action, seeking local and state legislation, as well as federal action, in support of tenants' rights.

The possibilities had always been apparent. One of the few tangible results of Jesse Gray's first rent strikes in New York was public recognition that the rat problem was still a major slum problem, and a concerted, if short-lived, city campaign against rats. Protective legislation was introduced in the New York State legislature largely because of those same strikes, and the legal balance between landlords' rights and tenants' rights has been somewhat redressed in most states in the recent past as a result of concerted tenant action. The Brooke amendment, prohibiting public housing authorities from charging more than 25 per cent of a tenant's income as rent, was passed by Congress with significant political support from NTO's members. NTO has participated in lawsuits, testified on the invitation of state and national legislative committees, prepared position papers, participated in task forces, submitted proposals to state legislative bodies, and its impact has been substantial.

In New York recently, organized tenants' groups were bitterly opposed to the Governor's Vacancy Decontrol Bill. Calling it a "direct official invitation to unscrupulous landlords to harass tenants into leaving," they have suggested that tenants might not only pay no increases, they might soon pay no rent at all. Senator Ohrenstein has proposed legislation specifically protecting organized tenants' unions, and providing in effect a Tenants Relations Act similar to the National Labor Relations Act to adjust the balance between two unequal contestants, who might then resolve their own problems privately. The bill is modeled on one drafted at the National Housing Law Project, based in part on NTO's experiences.

NTO's image is still not clear. Tony Henry, its executive director,* is committed to a thoroughly democratic, grassroots, completely participatory organization, as fully decentralized as possible, with a minimum national staff acting in a supporting, not a leadership, role. In local communities across the country, it is a militant organization of poor, overwhelmingly black tenants, modeling itself in tactics, organizing strategy and spirit on the CIO of the mid-thirties. In such communities its role is one of confrontation, its interests are opposed to the interests of landlords, and the issue is seen as one of bargaining and concessions, victory or defeat.

In its relationship with HUD, NTO has played, quite effectively on a national level, the role of spokesman for one constituent of HUD among many; a major one, indeed, but by no means the exclusive or only legitimate one. In conferences, state legislative battlefields and internal discussions, NTO sometimes sees itself as the spokesman for the consumer of housing, not only vis-à-vis the federal government but generally vis-à-vis the housing market as a whole, i.e., as an interest group on a par with the National Association of Real Estate Boards, the National Association of Home Builders, etc. Finally, every now and then there are rumblings that tenant organization should be the basis for a deeper strategy of social change, one that would link the interests of tenants as housing consumers with the interests of welfare recipients, union employees, minority groups and others in a broad coalition for social change.

NTO's greatest success thus far, and the easiest strategy for it to follow, is as the official spokesman for the consumer of public housing; whether it will ultimately be content with that role, or will try to build on a broader and yet untried organizational base—the residential interests of the underprivileged of this country—remains to be seen. □

*Jesse Gray became full-time director of NTO after having been its chairman, when Tony Henry moved over to become director of the newly formed National Tenants Information Service, a tax-exempt group formed to provide information on technical assistance in the areas of concern to the tenants' movement.

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BOOKS & THE ARTS

The Kent State Massacre

KENT STATE: What Happened and Why. *By James A. Michener. Random House. 559 pp. $10.*

ROBERT WALTERS
Mr. Walters has taught mathematics at the Naval Academy and Bennington College. His forthcoming book, Geopolitics in the West, *is being issued shortly by Penguin in England.*

Before May 1970, relatively few people had ever heard of Kent State, tucked away in the northeast corner of Ohio, 30 miles south of Cleveland and some 12 miles northeast of Akron. It was by no means a small institution since the number of students was given as approximately 21,000. Then quite suddenly something happened which made its name familiar all over the world and, indeed, to many persons a symbol. It was the killing of four students—two girls and two boys—and the wounding of nine others on Monday, May 4, 1970.

If the word "massacre" can be used to describe the shooting of five British subjects in Boston on March 5, 1770, by a small contingent of soldiers armed with single-shot muskets which after firing had to be laboriously reloaded, then this later event in Kent when soldiers, armed with semi-automatic rifles, shot thirteen students—mainly in the back—should also be termed a massacre. Given the respective rates of fire, the British soldiers were necessarily in far more danger from the crowd in Boston than was the National Guard at Kent State. Interestingly enough, the British captain and his men were tried for murder, but so far have we progressed that nothing of the sort happened at Kent. (Perhaps we should apply for readmission to the British Empire.) The judge who dismissed an attempt by the parents of Allison Krause, Jeff Miller and Sandy Scheuer to sue Governor Rhodes, General Del Corso and General Canterbury said, "It is an historic precedent that 'the Queen can do no wrong.' " Apparently the judge had not yet heard of the American Revolution. Even in Britain that doctrine would hardly be appealed to in a case of this kind today. What the judge's ruling implies is an open season on students.

In *Kent State: What Happened and Why,* James A. Michener and his team have done a most thorough job of assembling the facts of the tragedy. The quality of his interpretation and commentary is a different matter. There are three central aspects to the Kent State affair and to Michener's book. First, there is the incident itself and the events leading up to it, ably reported in this account. Secondly, there is the larger political meaning of the episode, which Michener avoids almost completely. And lastly, there is the broad, philosophical question raised by the author concerning the role of the university in society.

Why did the shootings take place? Michener agrees with subsequent observations that, despite the official version initially given out, the students posed no great threat to the guardsmen at the time of the massacre, nor was there evidence of a sniper. Michener is strangely reluctant to criticize the authorities harshly, but he comes down hard upon the students. Unquestionably, as even Vice President Agnew admitted in an unguarded moment, the guardsmen could have been charged with murder—and, indeed, they should have been so charged. The assumption that the atmosphere in Portage County was such that they could not have been convicted is beside the point. If the authorities truly believed in law and order, then the law should have been carried out. But it was not.

The events leading up to the shooting were highly deceptive, for very little damage was done by the students in the first phase on Friday. Michener compares this riot with the one which had taken place at Ohio State. "By any index you choose, the Saturday night riot at Ohio State was three to four times more serious than the Friday night riot at Kent." The difference was that at Kent the riot was viewed by officials, academic and otherwise, as being largely political in nature; hence, they overreacted.

The university officials were treated with almost open contempt by the politicians. The Governor tried to manage Kent State through the police and the National Guard. The Guard itself had been called in on the request of the Mayor of Kent. Rhodes elected to keep the university open and, at the same time, his agents sought to prevent large gatherings or rallies. This was essentially contradictory since a university, by definition, is an assemblage of people. With 21,000 persons on the campus, helicopters buzzing at treetop level—which forced the faculty to cancel classes and give up in disgust—there were bound to be gatherings, especially at noon, whether or not they were announced. The conditions for some kind of violent conflict had been set up by the authorities. And as in the Boston Massacre the crowd taunted the soldiers. Moreover, just as we all "know" today that nuclear arms will never be used, so the students "knew" the Guard would not fire or that they would fire blanks. It takes exceedingly well-trained troops to handle civil disturbances. Those called in to Kent State could not be so described.

Though Michener does not give them the credit that they deserve, three Kent faculty members turned out to be heroes—Glenn Frank, Mike Lunine and Seymour Baron. After the fatal shots were fired the students did not disperse in terror, as the military mind believes must happen in such circumstances. The universal assumption amongst the military is that they have a monopoly of courage, by virtue of their training and discipline. But this was not so at Kent. There was the distinct possibility of worse slaughter still, since the students now gathered in even greater force and talked of hurling themselves at the soldiers. One guardsman started to turn over the body of Jeff Miller with his foot, as if he were kicking over a dead dog, and had he carried out his intention, "the crowd would have torn him to pieces." The administrators and the coaches—the supposed leaders of the school—were apparently cowering somewhere and it was left to these courageous faculty members to deal with the situation. If they had not been present, then most surely there would have been further shooting. Canterbury, the arrogant leader of the armed men, gave every indication that he would have relished the chance to kill more students. Frank begged Canterbury for more time to calm down the students and Canterbury replied, "They're going to have to find out what law and order is all about!" One can only hope that Canterbury finds out. Harry Jones, one of Canterbury's junior officers, tried to push his force through the students. Frank pleaded with him not to come any closer. Jones said, "My orders are to move ahead," and Frank replied, "Over my dead body." What courage! Jones backed down; the troops

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could shoot people in the back, but not men who were facing them. If the slaughter had continued, then undoubtedly it would have induced far greater violence on other campuses—and quite possibly Mr. Nixon would have had to face a full-scale revolt against his desperate Indochinese policy.

Michener seems to have missed a larger meaning of the Kent State massacre. It is of no small interest that John Brown, the famous abolitionist leader, lived in that region, and for three years in Franklin Mills, which was later merged with another town to form Kent. The atmosphere in the country today resembles in many ways that of pre-Civil War America. Then, as now, the federal government was dominated by the South. There had been an unpopular war—the one with Mexico. Lincoln had spoken out against it, and U. S. Grant, who served in it, called it an unjust war. William Lloyd Garrison burned a copy of the Constitution on July 4, 1854, in a protest against slavery; three days prior to the killings at Kent State, the students had buried a copy of the Constitution.

The Nixon Administration, in its pursuit of the so-called Southern strategy, had hopes of combining the Heartland section with the South in a permanent coalition. Kevin Phillips, in his book, *The Emerging Republican Majority*, drew a map of this region which indicated that only the northern fringe of Ohio was within the Yankee domain of influence. If this is a true analysis, then perhaps Ohio should have been in the Confederacy earlier. But it was not. The essential factor missing from the equation is the moral force of a powerful idea. The aftermath of the Kent State massacre proved to be the highwater mark of the Southern strategy.

Michener expresses great concern with the vehemence of public hatred toward the students and the support expressed for the National Guard. However, the defeat of Rhodes in the primary indicated that this reaction expressed the sentiments not of the silent majority but of a vocal minority. It is this same element which haunts Nixon and Kissinger in their thinking about the Vietnamese War. They fear the wrath of the far Right if they should stop welfare payments to Ky and Thieu. Since Nixon has been the personification of the Right, this attitude calls up visions of a man afraid of his own shadow.

One important element of the Kent State affair is indicated in Michener's very first sentence. He asks the question, "What ought a university to be?" He obviously believes the issue important, and so it is. Unfortunately, he becomes so bogged down in details thereafter that he more or less loses sight of his own question. Reading between the lines one gathers that Michener looks upon the university as essentially real estate, plus the administration that hires the teachers. This seems to be the American conception of a university.

Recently the American Academy of Arts and Sciences, in a report of a committee headed by Martin Meyerson, stated that, "Since a university is not a parliamentary body, and even less a place where total participation is possible, the existence of a strong executive is essential." Presumably this august body would not recognize Paris, Oxford, Cambridge, etc., as legitimate universities, since the European conception is vastly different. Oskar Morgenstern, comparing the American and the European ideas on this subject, wrote in 1959 in *The Question of National Defense*: "The appointed president in turn appoints deans, who appoint the chairmen of departments, and so on down the scale. The professors are not looked upon as independent scholars; they make up the 'personnel,' the 'teaching staff,' as they are disdainfully referred to. They have individual 'superiors' above them, which is not the case in Europe. There the rector, duly elected from the ranks of the professors, is *primus inter pares* for a year or two. He invariably is a man of the highest scientific and scholarly accomplishments. Each dean is similarly elected for equally short temporary office."

Hastings Rashdall, in a first chapter entitled, "What is a University?" from the book, *The Universities of Europe in the Middle Ages*, notes, "Paris and Bologna are the two archetypal—it might almost be said the only original universities: Paris supplied the model for the universities of masters, Bologna for the universities of students." There is no mention of an institution organized by laymen, such as businessmen, who appoint a president—now usually a lawyer—who in turn hires deans and teachers. Michener maintains that in the future, "the public and the legislature will demand a higher level of performance from appointed boards, who will have to exercise more control than in the past." In Europe, institutions discussable in such terms would be called schools, and a vast gulf exists between schools and universities. Until recently, at least, the best "university" jobs in the United States were nonteaching positions, i.e., president, dean, etc. As Martha repeatedly points out in Albee's play, *Who's Afraid*

"All but the most insensitive reader will be appalled by the inner revelations these returned veterans make." —*Publishers' Weekly*

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"Timely.... An important book." —Bob Cromie, *Chicago Tribune*

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The Return of the Vietnam Veteran

by Murray Polner

$5.95 at all bookstores

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of Virginia Woolf?, "And Daddy built this college. . . . He *is* the college." George's great failing had been that he was not *the* History Department, i.e., the Head. He was only *in* the History Department.

Unfortunately, this attitude prevails in the United States from the highest to the lowest. Some years ago a friend, who had taught at Lawrence College in Wisconsin, told me of a conversation he once had with President Pusey in the latter's office. During the course of this friendly encounter, my friend happened to use a four-letter word. Pusey expressed surprise, commenting thoughtfully that that was the first time anyone had sworn in his presence since he had been president. Such is the reverence bestowed on the head of the supposed republic of scholars in the United States.

If the European definition of a university is accepted, which seems only reasonable, then one must conclude that no institution of this nature exists in the United States. If we mean to develop one, at the very minimum its president should be elected by the faculty. Strangely enough, Michener recommends that we take a step backward by eliminating tenure, which now acts as a feeble safeguard of the faculty's independence. Michener's idea of a university is quaint, to say the least. Nor is it realistic in any terms to call Kent State a "great state university," as Michener does in his final sentence. That is sheer nonsense. □

RESOLUTIONS
(After Tu Fu)

Before sunrise I wake
in the bandaged light
of new snow. The city so quiet
it could be mourning the death
of the last whale.
I think of all the best times
glowing like the red & green lights
of disappearing trains.
Across the river to the West
where the moon would be
the whistle of one small boat.
The cats twitch in their sleep
dreaming perhaps of the unborn.
It is early in the year.
I lift my arms, rise on toes
& decide to remain motionless
for 300 days.

Robert Peterson

Minimal Art

AND REALLY FRAU BLUM WOULD VERY MUCH LIKE TO MEET THE MILKMAN. *By Peter Bichsel. Translated by Michael Hamburger. Delacorte Press. 88 pp. $4.75.*

THERE IS NO SUCH PLACE AS AMERICA. *By Peter Bichsel. Translated by Michael Hamburger. Delacorte Press. 85 pp. $4.95.*

RONALD DE FEO
Mr. De Feo's short stories have appeared in the Transatlantic, Massachusetts, North American *and* Roanoke Reviews.

There was a time, not so long ago, when writers of short fiction were content to refer to their creations as "short stories," but today those who pride themselves on being unconventional are reluctant to use such an old-fashioned term. Thus we have Borges' *"ficciones,"* Juan José Arreola's "inventions," and Beckett's "texts for nothing." In an attempt to win regard as a "serious author," the British science-fiction writer J. G. Ballard has labeled his recent short stories "condensed novels." And critics and dust-jacket copywriters have come up with categories like "truncated melodramas" and "fabulations."

Peter Bichsel is a young Swiss writer who composes "prose miniatures." It is true that for most of his work the term "short story" is genuinely inapplicable. Even his longer pieces—those that run to more than 2 or 3 small pages—have a sketchlike quality. One is reminded of Henri Michaux, without the fantasy, and of Nathalie Sarraute (*Tropisms*), without the tedium.

In his first book, *And Really Frau Blum Would Very Much Like to Meet the Milkman*, Bichsel focuses almost exclusively on the little rituals his characters perform. In one sketch, a group of men are attracted to a girl who appears at the train station every evening; they would like to approach her, but they keep their distance; as she waits for her friends, the men look at her admiringly and their thoughts wander. In another, the quiet Herr Kurt watches a daily game of cards. The players know little about him. They are not even sure that he understands the rules of the game. But at Herr Kurt's funeral, they will discover who he was, where he worked—will, ironically enough, learn about his life.

And Frau Blum would very much like to meet the milkman. No one really knows him, for he goes about his business in the early morning hours and then disappears. Frau Blum knows him only by the occasional note he leaves. The milkman knows Frau Blum only by her dented milk pan.

Bichsel's sketches touch briefly in this way on commonplace psychic and physical routines. A trivial exercise, one would imagine, but the little fables are not all that forgettable. They have a certain resonance and complexity; one is drawn back to them as if they were unsolved puzzles. By narrowing his field of vision, by isolating his characters so that we see them functioning only in a particular situation, Bichsel captures the pure absurdity of their rituals. He gives no reasons for their behavior, but the situations themselves encourage the reader to speculate. For example, in the case of Herr Kurt and the card game, we wonder why this man has never joined the game that is such an important part of his life, and why the players ignore him, the ever-present shadow. It would seem that definite roles have been established here —the men at the table are the participants, Herr Kurt is the observer. Neither he nor the players will do anything to alter their relationship.

The rituals become more obsessive and are described at greater length in Bichsel's second collection, *There Is No Such Place as America*. "A Table is a Table" is about a lonely old man who is tired of his tedious existence. When he realizes that change won't occur spontaneously, that he must initiate it, he systematically changes the names of all the objects in his room. "So: In the morning the old man would lie in picture for a long time, at nine the photograph album rang, the man got up and stood on the wardrobe . . . ," etc. In "The Man with the Memory," the protagonist has memorized the railway timetable and is proud of his achievement. One day an information office opens at the local station, and with the schedule before him, the official in charge is just as much an expert as he. Accordingly, the man with the memory decides to memorize the number of steps in all the stairways in town. No one else will claim that knowledge! Both these characters alter their routines, but they are only substituting one ritual for another. Change in Bichsel's world is merely illusory.

It is clear that in some of his very short pieces, Bichsel has simply eliminated too many details; the sketches owe their seeming profundity to the fact that we know so little about the characters involved. And his language is often plain to the point of banality, so that his ideas are livelier than the words used to convey them. But to anyone who has been annoyed by the labored whimsy of Barth, Barthelme and Coover, Bichsel's literary asceticism will be a relief. Using the slenderest means, he can be quite affecting. The rituals he exposes are all too human for comfort. □

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Why They Screamed at Midnight

THE SMYRNA AFFAIR. *By Marjorie Housepian. Harcourt Brace Jovanovich. 269 pp. $7.95.*

PETER SOURIAN
Mr. Sourian has published several novels and teaches at Bard College.

After breaking Turkish resistance at the end of World War I, British forces came upon a number of cipher telegrams which their swift advance had prevented the Turks from destroying. The telegrams all said about the same thing:

> *September 15, 1915*
> The government . . . has decided to destroy completely all Armenians living in Turkey. Those who oppose this order and decision cannot remain on the official staff of the Empire. An end must be put to their existence, however criminal the measures taken may be, and no regard must be paid to age, or sex, or to conscientious scruple.
> *(signed) Minister of the Interior Talaat*

Responsible Western estimates of the extent of the resulting genocide range from Lord Bryce's conservative one of 600,000 dead, made before the fever had run its course, to one of 1,396,000, quoted by Howard M. Sachar in his book, *The Emergence of the Middle East 1914-1924*, as "the most thoroughly documented figure."

Killings of the infidel were not new. There had been sporadic massacres ever since the hegemony of the Ottomans was established in the 15th century, but the outside world became especially aroused when in 1895, by order of Sultan Abdul Hamid, some 200,000 Armenians were exterminated.

Yet that outside world had had something to do with the Sultan's decision. Britain was to Czarist Russia at that time what the United States is to the Soviet Union today, and control of the Dardanelles mattered as crucially to these powers as the Arab-Israeli situation does to their present-day counterparts. In 1878, following the Russo-Turkish Wars, the Treaty of Berlin honored nationalistic aspirations within the Ottoman Empire by slicing off substantial chunks of it (Romania, Serbia, Montenegro, etc.), and it also ceded other territory to Russia. Furthermore it gave the Western powers rights of protection over the Armenians in the eastern provinces of Turkey, on the sensitive Russian border. This made the Christian Armenians an especially manipulable factor in the see-saw game of playing on Turkish fears.

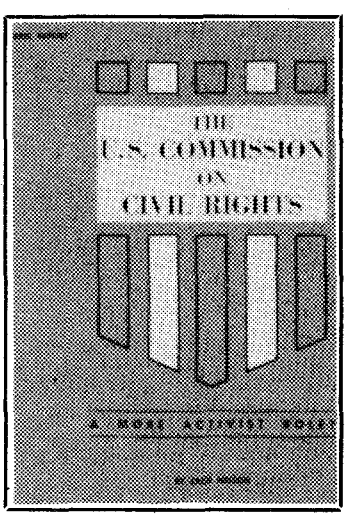
The Turks saw this disturbingly large population as having dangerous nationalistic aspirations. The Armenians (who had been there for the past 3,000 years) were also the most available targets for hemmed-in Turkish anger. Their religion and their prosperity made them the natural objects of xenophobia. This was also true of the Asia Minor Greeks concentrated in Smyrna, Istanbul, and along the Black Sea coast. Accordingly, nearly every Armenian of the diaspora has had his quota of family horror stories to tell. Some feel that proper attention has never been paid to the causes and results of Turkish behavior toward the Armenians and, subsequently, toward the largely Greek Christian population of Smyrna. But what is the point of raking over these ashes once again? Is it not simply an instance of self-righteous ethnic groups, perversely proud to have been victims, insatiably seeking morbid satisfaction in the narcissistic, chauvinistic totting-up of old scores?

Marjorie Housepian, in her painstakingly documented, lucid exploration of the complexities behind the willful burning of the beautiful Levantine city of Smyrna and the climactic expulsion of the Christian minorities from Asia Minor in 1922, admits that "Not everyone is equally concerned about the historical record." However she goes on to report that "At least one student of history compared the parade of events in Turkey with their subsequent dismissal, and acted on a cynical conclusion. 'Who, after all, speaks today of the annihilation of the Armenians,' Hitler declared as he announced his own plans for genocide to his Supreme Commanders on August 22, 1939. 'The world believes in success alone.' "

A domino theory certainly applies to evildoing. Where it is truly resisted by the world and seen not to pay off, nations may deem it in their interests to behave with relative correctness; otherwise evil battens on precedent. It now appears that Hitler himself was a little surprised by the mildness of initial reactions to his tentative early aggressions —and felt encouraged to proceed further.

There is of course false resistance, which can be worse than none at all. After 1919, in spite of shrill Western protestations, the Turks heard the more latent but stronger music of Western acquiescence, and shrewdly marched to it, turning the defeat they had just suffered at the hands of England, France and Italy, into a victory over exhausted Greece. Greece had nothing of material value to offer these nations, her putative allies, whereas the Turks dangled a rich prize before them all. The ill-equipped Greek army in Asia Minor was forsaken in favor of prospects of oil concessions in the Ottoman Empire's Mesopotamia.

The Allies—Italy in the vanguard—were not allied when it came to jockeying for the inside track with an ostensibly defeated Turkey. What Henri Bérenger wrote to Clemenceau on December 12, 1919, "He who owns the oil will own the world," had been fully understood by First Lord of the Admiralty Winston Churchill, and, to a lesser extent, by our State Department. As the official history of the Standard Oil Company of New



". . . there ought to be a U.S. Commission on Human Rights instead of on civil rights . . ."

Rev. Theodore Hesburgh, Chairman, U.S. Commission on Civil Rights

"The history of the commission, its achievements, its handicaps and its failures are contained in a compendious account by Jack Nelson . . . one of the most incisive and talented reporters in the business". . . The Nation, June 28, 1971. Available for $2 from:
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Jersey states: "The fact that the State Department commenced to extend its active support to American businessmen abroad is not only of utmost significance to this period of Jersey Standard's history, but is fundamental to an understanding of the Jersey company today."

The Smyrna Affair suggests how inexorably great powers will use helpless ones for their own ends; to cap it all, they have powerful means of influencing opinion, giving currency to interpretations of events that best suit their purposes; their interpretations will tend to stick.

Events at Smyrna were being conveniently interpreted even as they were happening. Indeed, the ships of twenty-one civilized nations lay in the harbor of Smyrna for days, watching the death and destruction as if they were not happening. It was a real Passion play, a horrific symbol for everything that has been wrong with the world since the beginning of mankind.

British sailors were ordered to pour boiling water on Greek and Armenian children who swam out to the ships for their lives (most of the able-bodied men had been killed, and the women raped or abducted). American destroyers turned up their phonographs on deck in an effort to drown out the screams. Ernest Hemingway wrote of it in *In Our Time*: "The strange thing was . . . how they screamed every night at midnight. I do not know why they screamed at that time. We were in the harbor and they were all on the pier and at midnight they started screaming. We used to turn the searchlight on them to quiet them."

On land, among American officials and seamen, there were the usual brutes, often at high echelons, and then there were those persons who knew how to distinguish while "following orders" and engaged in acts of decency when they could, sometimes at the risk of their lives.

After seeing his reports frighteningly distorted by the Near East desk of the State Department under Allen Dulles, the admirable American consul at Smyrna, George Horton, was moved to say: "The United States has done some things of which it ought to be ashamed, but nations, like corporations, lawyers tell us, have no soul."

On the testimony of *The Smyrna Affair*, commerce unfailingly overwhelmed regard for the truth. Although Horton and many other witnesses testified that the Turks had set fire to Smyrna, insurance claims on American Tobacco Company stocks potentially involving more than $150 million, were contingent on proving that the fire had not been an act of war—in other words, not set by Turkish soldiers—but merely an accident. The insurers were not American but British, and during the trial it became apparent that, with an eye to American business interests, Dulles or Admiral Mark Bristol (the ranking American diplomat in Turkey) had foresightedly gone out of his way to deny what numerous witnesses affirmed.

Just as a knowledge of Chinese and Vietnamese history is of vital as well as academic interest in the light of current history, so Miss Housepian's book is enlightening about the present-day Middle Eastern situation. She sees current factionalism in Greek politics as having roots in the dissension over Venizelos' policy toward the Turks between 1919 and 1922. The deep emotional issues of the Cyprus problem are to be understood in the light of the fires of Smyrna. And in the same way, the mendacity of the State Department in Near Eastern questions does not inspire confidence in American peace initiatives over Israel. While it is true that Palestinian Arabs live under abominable conditions, the Israelis have reason to fear being driven into the sea, with no one to stop it. In 1922, Greek civilians were literally driven into the sea and no one stopped it.

POEM FOR A DYING BUMBLEBEE

The thorns know the hour
a dusty tourist strikes the rose—
flowers are not born; they grow
for this traveller in his tiny vestment
who falls on his pollen laden elbows
in Momma's tabernacle, in October.

Joe Rosenblatt

At that time it was the Greeks themselves who assumed chief responsibility for the task of evacuating their people. They took thousands of Armenian survivors along with them—old people, orphans. Greece, beset with problems, already swamped with refugees from Thrace, chose to treat these stateless victims as its own, while rich nations flatly refused to shelter them. Perhaps the common suffering had made the Greeks responsive, had made them realize that there was no real difference between themselves and other sufferers.

Of all these things, Miss Housepian writes compellingly. Her book rakes over the old ashes to some purpose, rekindling our anger in a potentially useful way—the more so because of her evident scrupulousness in not sacrificing truth for effect. □

How Long Can They Starve?

REVOLUTION NEXT DOOR: Latin America in the 1970s. *By Gary MacEoin. Holt, Rinehart & Winston. 243 pp. $6.95.*

PENNY LERNOUX
Miss Lernoux is a correspondent for the Copley News Service in Colombia.

Shortly after Fidel Castro's now historic rift with Washington, U.S. wire services were besieged with queries from irate newspaper publishers who wanted to know why they had not been informed of what was happening in Cuba. The wire services replied by producing reams of copy on the Cuban situation which nobody had bothered to read, much less publish. The same example may be cited, less dramatically, one day in reference to Gary MacEoin's brief but illuminating survey of the United States' seething neighbors. Those who should heed his warning today—namely corporate directors, Pentagon advisers and the CIA—undoubtedly will dismiss the book as leftist propaganda, while others, that large segment of readers who find Latin America a monumental bore, will ignore it. This is unfortunate because MacEoin, a journalist and writer with considerable experience in Latin America, affirms some harsh truths which explain why the Latins dislike the United States so much and why they are headed inexorably toward socialism.

Unlike many American books on the subject, MacEoin allows Latins to speak for themselves. Whether interviewing a Marxist student or a local oligarch, he records a dialogue that rings true to anyone who has spent much time at students' meetings or businessmen's conferences. Largely anecdotal, the book covers most of Latin America's important institutions, but its constant theme is the growing division between rich and poor, between developed and underdeveloped countries. Contrary to the glowing reports usually handed out by U.S. embassies which, as MacEoin correctly observes, are "extremely reluctant to say anything worthwhile about any subject," Latin America's poor are getting poorer. According to the Center for Economic and Social Development in Latin America, between 270 million and 300 million persons in the region will be marginal to the economy in thirty years. MacEoin points out that while annual per capita income in-

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creases by $2.20 in underdeveloped countries (versus $110 in developed ones), this small improvement is concentrated in the reduced sector monopolizing the benefits of technology. Despite growing pressures from the masses to change this situation, the privileged few have been able to maintain their position by selling themselves to U.S. business and political interests and copying U.S. methods of repression (i.e., U.S. training of Brazilian police). He describes a long list of familiar Latin complaints against U.S. business, including the absorption of Latin companies and credit, corruption of consumer tastes, decapitalization of local economies and the progressive indebtedness of Latin treasuries as a result of such misnomers as the Alliance for Progress.

The privileged minority's "subliminal fear that 'they' will come down one day out of the mountains 'and kill us all' " has strengthened the rationalization that any change signifying improvement in the masses' condition automatically means the advent of communism. Like U.S. businessmen and government officials, these Latin Americans conveniently find a Communist under every bush. Repressive right-wing dictatorships like that of Brazil brand all opposition as Communist-inspired and are encouraged by U.S. aid and investment to continue doing so. "The fundamental dilemma for the Latin American armed forces, as also for the United States while it adheres to its present policy, is that change has been forcibly prevented for such a long time that any effort to effect a substantial improvement in the living conditions of the masses quickly gets out of hand," MacEoin writes. "The generals are forced to lump under the global heading of communism every activity and movement that threatens the status quo. Otherwise, they would be unable to justify their suppression of democratic forms in the name of democracy, and their growing dependence on a foreign power to save them from the threat of a foreign power."

The *status quo*, as MacEoin points out, is a misnomer in terms of Latin America because it assumes that the situation is static when it is not. There is a growing awareness throughout the hemisphere, among priests, students, colonels, peasants and even a few statesmen, that somehow or other the vicious circle which has made Latin America an economic colony of the United States through loans and investment must be broken. Most of MacEoin's advocates of change believe in violent revolution although in fact the majority of Latin American social reformers still prefer to see change come about peacefully. In that sense, the book's title and its most oft-quoted personalities suggest an apocalyptic immediacy so far missing from the scene.

By change, the reformers in question usually mean some form of nationalistic socialism which excludes servitude to the Soviet Union as well as the United States, but beyond that there is little agreement about the nuts and bolts of a working government. Latin Americans still are groping for an indigenous political identity and have not graduated beyond the phase of criticizing the obvious. Terrorist and guerrilla leaders, for example, refuse to talk about the "post-revolutionary phase" except in the vaguest terms because they think any discussion now could damage the unity of the revolutionary movement. Nevertheless, one is forced to question whether they have seriously thought out what they will do once they have assumed control of the government. (Salvador Allende's government in Chile obviously is an exception.)

As MacEoin correctly reports, those who want freedom are not so naive as to think that they will get their wish this year, or even soon. In contrast to the Latin American establishment and its U.S. mentor which not only have money, power and technological knowledge but also unity of purpose, Latin American reformers and revolutionaries are hampered by lack of funds, limited access to the communications media and, most important, little cohesive spirit. Nothing delights the oligarchy more than the spectacle of the Left squabbling among itself, a spectacle, I might add, which can be observed in most Latin countries. Constant harassment and repression have prevented natural allies from joining forces. The worker suspects the student, and the student cannot even communicate with the peasant. Even at the height of the Venezuelan guerrilla campaign in 1963-4, for example, leaders of the Armed Forces of National Liberation complained to me that they "couldn't get through to the peasants."

One also must question, as MacEoin does not, the limits of the region's wealth and technology. Latin America may possess ample natural resources, but there just is not enough capital and economic infrastructure to satisfy the needs of the 275 million population. Even if U.S. business and government were to concentrate their efforts on basic needs instead of TV sets, hair spray and soft drinks—which they won't—it is doubtful that the standard of living could be raised substantially with the area's current high birth rates. MacEoin maintains

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that Latin Americans see birth control as "a cheap shortcut to ease pressures for development," but this is a debatable assumption. Attitudes vary according to country, and often the most radical Latins, including priests, advocate birth control as a necessary prerequisite to development. Those opposed often appeal to the cart-before-the-horse argument, but they have yet to answer the vital question: what are Latin America, the United States and the world going to do about those 300 million people who will be marginal to the economy at the end of the century?

MacEoin puts his faith in the new leftist military dictatorships of Peru and Bolivia, which have begun to doubt the traditional anti-Communist doctrine and have taken steps to curtail U.S. business and political power and to improve the lot of the masses, although he admits that those nations continue to depend on U.S.-controlled markets and are too limited in land area, population and industrial development to have the impact of Argentina or Brazil. For some reason, he ignores Venezuela throughout the book, although that country offers a viable alternative to the Peruvian and Bolivian military regimes. In an ironic turnabout, the country in Latin America with the largest U.S. investment and some of the murkiest history (particularly in the U.S.-owned oil fields) boasts a constitutionally elected congress which is determined to end the neo-colonial yoke. Venezuela is demonstrating that the vicious circle can be broken by marketing its own basic products, oil and natural gas, thereby short-circuiting the U.S.-dominated cycle of production, refining and selling. Chief architect of the Organization of Petroleum Exporting Countries, Venezuela has shown other developing nations that they, too, can form international cartels to deal with the major oil companies on an equal footing. Venezuela also has proved that the principle of divide and rule can be applied to these paragons of capitalism, who will break ranks whenever the profit motive moves them. Other Latin products, such as coffee, sugar and bananas, do not offer the same leverage as oil, but that does not mean that the Venezuelan example of a democratically elected government ending foreign domination could not set a pattern for the rest of Latin America.

MacEoin, like so many Latin American observers, wonders how long the social and economic pressures can continue to build before there is an explosion. "Logic tells us something has to give," he says, but logic cannot explain the mute acceptance by the poverty-stricken of their worsening condition. Starvation, apparently, has only one limit—death. □

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ART

LAWRENCE ALLOWAY

The horizon, one's own skin, a sentence, these are possible materials for art. Land art, by taking the earth itself as a medium, has expanded the scale possible for artists and Body art, by making the artist's organism his subject, has abolished the need for hardware (except for a camera to record the gymnastics or the torn toenail). Conceptual art, since it is propositional in form, reduces the physical presence of art to whatever is needed to point to an idea: it is not objectless art but the kind of object is usually common and repeatable, like Xerox copies. At present artists working in these ways are visible in terms of *movements*, because the comparative unfamiliarity of their work outweighs recognition of their individual styles.

Why should artists be working in ways that are akin to landscape gardening, physical exercises and writing? Something of the kind occurred when the development of Happenings in the fifties produced a form of performance art that was akin to but different from theatre. Why is it that visual artists are the people to be making these experimental moves out of a strictly defined medium and toward other arts or zigzagging between the arts? One could not have expected Happenings to be developed within the theatre for the simple reason that the theatre is totally defined by its own operational lore and techniques. It is similar with writers, or most of them: writing is well-organized and classified compared to the range of speculative activity in the visual arts. Artists are definitely more restless and venturesome as a class than writers have become.

One result of this extension of activity into zones not previously thought to be accessible to artists has been to revive conversation about what Clement Greenberg called in *The Nation* more than twenty years ago the crisis of easel painting. The original activity of Land, Body, and Conceptual artists is, as usual with the appearance of any new style, taken to signal the eclipse of prior forms. The customary way to welcome new art is in absolute terms. This gratifies the artists (who are made to feel historically crucial) and satisfies critics by keeping the art scene simple. Thus new styles are said to render obsolete previously available ways of working. Obsolescence in art means that the field, instead of growing stylistically more diverse and numerically greater with the passage of time, is kept at a steady state by drastic acts of exclusion.

The decline, disappearance, or death of easel painting is one of the stock ways of keeping art simple and, at the same time relating it to themes of industrialism and democracy which are everyone's problems. The list of obituaries is very long and here I shall quote from just a few. El Lissitzky voiced the technological criticism of easel painting amusingly when he referred to "the work of the individual small producer, who sits behind locked doors, crouching in front of his easel, the only one who can begin his picture and the only one who can finish it." Implicit are themes of secession from society and overrefined specialization. El Lissitzky wants an art that is collectively produced and plural in number. The first director of the Bauhaus, Walter Gropius, declared it as the aim of the school to recover for art "the architectonic spirit which it has lost as 'salon art.'" (*Salon art* here means not Academic art of the 19th century, its present sense, but art that is precious and secluded.) A later director of the Bauhaus, Moholy-Nagy, decided "it was senseless to employ means that I could only regard as out of date," meaning, of course, easel painting.

The basis for this view of easel painting as inadequate to "modern" experience is in the 19th century. William Morris considered that pure art, isolated from contact with all of the culture

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(actually an impossible condition), became "nothing but dull adjuncts to unmeaning pomp, or ingenious toys for a few rich and idle men." Art must "not depend on the whim of a few persons, but on the will of all." Thus the production of unique, once-only, originals restricted art, and easel painting was the type of such specialization. The solution, from Morris, through Constructivism and the Bauhaus, to the present spate of reproducible objects, has been the production of multiple originals. On the whole the function of the technological argument and the put-down of easel painting expressed the guilt and social conscience of artists without being a real description of their art. The reservation must be made that this is not really the affiliation with mass production that it seems. Most multiples are, just as surely as Morris' wallpapers and textiles, serial *hand* production. That is to say, in production and in edition size, multiples are as dependent on handcraft procedures as, say, etching. (Incidentally, the catalogue by John L. Tancock of an interesting show at the Philadelphia Musuem of Art last spring, "Multiples: the First Decade," presents much of the information about artists' games with mass production.)

Though the claims are unconvincing one can see the appropriateness of trying to kill off easel painting for artists who were trying to accommodate art to Industrial Design as the Bauhaus and the Constructivists were. However, ideas ramble, and the theme has been picked up by artists and critics with no technological nostalgia at all. For instance, in 1947 Jackson Pollock applied for a Guggenheim Fellowship because, to quote his application, he wanted "to paint large movable pictures which will function between the easel and the mural." He didn't get the grant but he painted the pictures, his best, the large drip paintings. It is interesting to learn that they were based on a belief that easel painting was "a dying form." Greenberg, already mentioned in this connection, wrote in 1948 in terms that may illuminate his friend Pollock's ideas. First he defined the easel picture as devoted to "the illusion of a box-like cavity . . . and, within this, as a unity, it organizes three dimensional semblances." When painting was flat or all-over in pattern, it was said to be incompatible with "the essence of the easel picture." That is to say, Greenberg set up a definition based on Caravaggio and then judged departures from the schema as a crisis of the form. He has changed his mind since, I believe, but this is a clear case of the tactic of burying easel painting to promote a new style, Pollock and Abstract Expressionism being the beneficiaries in this case.

In fact, easel painting, since the 16th century, has constituted the form of maximum freedom in art, the least constrained by patronage, the most conducive to experiment. It has an exceptional sign-capacity and is subject to the total control of artists. Modern art looks more like what easel painting was invented for than its successor. □

FARM RENTAL

Each wind has the attic door
lick at the eaves,
spreads the opening sore, the seeds
of milkweed, timothy, burrs
through the used fields.
The wind can have all of it.

I want to kill birds,
cornfat game birds ready to die,
rising to the sights of a gun
I cannot afford to own.

In the woods behind the house
pheasants cluck in the shells
of some half-gone cars.

Thomas Rabbitt

THEATRE

HAROLD CLURMAN

London

England is weary. So at least its clever new plays testify. The lassitude is expressed either in scorn of the past or in mockery of the present. Old folks indulge in nostalgia. Still there is patience (which may be a form of discipline) and acceptance or passivity in the face of the dismal. The inertia at the core of these plays is rouged with ribaldry or imprecations. But they are comedies: comedies of inaction.

The audience laughs, thinking it unseemly or futile to cry. It tolerates the sordid, as if resigned to a condition it does not possess the strength to change. It also laughs at its own patience and orderliness. Perhaps it finds safety in the thought, "This too shall pass." There is no genuine ardor in the rambunctiousness of the young.

In America we tend to blame personal hebetude on mothers; in England it is blamed on fathers. The dramatization of both these grudges soon becomes tiresome. *Forget-Me-Not Lane* by Peter Nichols, whose *Joe Egg* and *The National Health* are more original plays, pulls its punches in amiable humor, but is rather sick at heart. Frank, its reminiscing nonhero, can hardly bear his fool of a father, who also drives Frank's mother up the wall.

What's wrong with old da'? He's complacently immersed in the muck of lower-class country prejudices. He is defiantly ignorant; no fresh air or new light can be forced into his consciousness. Frank cannot actually rebel against his father, "consideration" being the impediment. He understands that the old duffer cannot help being what he is, a victim of the static society of bygone times which rendered him content to live in less than a mediocrity of means, aspiration, education.

So Frank becomes a listless teacher, a poor husband, an inadequate lover, a failure in everything that matters. He strikes one as being as hopeless as his father, with the additional burdens of realizing his condition and being unable to do anything but jeer at himself. It is all treated as a joke. These characters would be pitiful, if not somewhat boring, were they not so well written and well acted. The English impersonate such misfits—especially the elder ones—with comic relish.

More probing and much more acerbic in language is David Mercer's *After Haggerty*. It is more ambitious in

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intellectual scope though more ungainly in structure than the Nichols play. The central character, Bernard Link, is a mildly Marxist theatre critic. He has little respect for his profession and his radical proclivities are lamed rather than fortified by the chain of events in Budapest, Prague, China, Cuba and Chicago. Why does he so lack ideas and gumption? The fault, once again, is papa's. His old man is even more resolutely obtuse than his coeval in the Nichols comedy. He is very nearly a monster, and the son, though enraged, is merely sorry for his parent and rather ashamed that he bears him so much animosity.

An American woman is introduced as contrast to Bernard. She was formerly the mistress of a shadowy (never seen) Irishman, Haggerty, who was also a bookish leftist. She is forthright, brash, desirous of companionship with intelligent and determined men. She is noisily impatient for "redemption" through an active and courageous leader. Haggerty, we learn, in despair over his own strictly mental insurgency, committed suicide by standing between the fire of two contestant (presumably "Communist") forces, while Bernard to the very end remains a nice bloke with no real direction and therefore no positive energy.

The pivotal characters in the Nichols and the Mercer plays are fortyish; a younger group is on view in David Hare's *Slag* and in E. A. Whitehead's *The Foursome*. E. A. Whitehead describes himself in this perhaps significant manner: "I was born without benefit of clergy in Liverpool's Scotland Road, educated by the Jesuits, survived Cambridge, held back the Red Menace in Germany, did the usual rounds as a milkman, postman, busman, drug peddler, *and am still seeking revenge for it all* (see *The Foursome*)." [The italics are mine.]

I reviewed *Slag* briefly when it was produced at the Public Theatre in New York. The acting (especially that of Lynn Redgrave) is much more persuasive in London, so that a play that seemed a foulmouthed lark at home has more meaning here. It reveals three young females who are incompetent teachers in a failing girls' secondary school. The most literate of the three bursts with half-digested women's lib fervor. She is tortured by her antagonism to everything in today's social setup, while remaining a tempestuously outspoken virgin who faints at the very suggestion of a Lesbian encounter between the two other girls. The role strikes a serious note amid all the guffaws which the license of its language excites, because we find that the girl reflects the anguish caused in her by the native environment without the knowledge or experience to cope with it by any means other than insult.

Another of the trio is simply an addlebrained pussy cat, chiefly eager for sexual satisfaction. The third girl ("the head mistress") is a semi-efficient cog in the existing though badly running machine of the *status quo*, and probably a Lesbian.

Though totally dissimilar in factual and technical content than the plays about the men, the pattern *Slag* traces comes to the same impasse. There is a whirl of occasionally brilliant talk—all these dramatists write with admirable fluency—which is largely invective peppered with gross epithets that serve only to increase the sense of general impotence.

The Foursome is a "slice of life," presenting two young fellows of the crudest working-class background and two chicks of like stripe, whom the boys have picked up in a pub of a Saturday night. All of them drunk, they have spent the night in the boys' van. When we meet them they are at a beach near Liverpool on a Sunday morning. The men's basic contempt for the girls is plain throughout the sexual byplay and afterplay. They are not "bad" men but uncouth, with elements of sensibility peeping through their habitual sadism. It can be seen in their semi-submerged disgust at the sordidness of the surroundings in which they live and seek their fun.

The merit of this play is that the situation is set forth with unrelenting honesty. I wish the audience were not so prone to think of it as if it were a comic turn, an English equivalent of *The Dirtiest Show in Town*, which is being presented with apparent success in a nearby theatre.

I have spoken of these exhibits in what may seem a crabbed manner. They trouble me, not because of their inadequacies as drama—on the contrary, though one cannot claim great distinction for them, they are respectable efforts by serious playwrights not yet in their prime—but because they are symptoms of a situation, a world at dead end. It may even be encouraging that more such plays are being written now in England—Edward Bond's *Saved* was perhaps the best of them—than in America, and that they are nearly always better done.

Generally the acting in London is technically proficient and responsive to the plays' social relevance. At the subsidized theatres—the National, the Royal Shakespeare, the Royal Court—the level of performance is often truly superior. *After Haggerty*, though now playing in a West End house, was originally done by the Royal Shakespeare Company. *Slag*, an experimental group production has been redone at the Royal Court, where *The Foursome* originated in its own tiny "rooftop" quarters. And Paul Scofield who is so heartwarmingly effective in Zuckmayer's *The Captain of Köpenick*—a true achievement in character acting—is at the National.

A final word about the Zuckmayer play, virtually a German classic of 20th-century comedy. It is based on an actual incident which convulsed Kaiser Wilhelm and the bourgeoisie of his day. A luckless vagrant and ex-jailbird was able to hoodwink the leading functionaries of a small town into total subservience by donning an army captain's uniform and passing himself off as a military man. Apart from the excellence of the production, the London audience enjoys the play because it pokes fun at adulation of the uniform as a symbol of all "establishments" and because in this case the uniform and the establishment are German. Thus the English audience achieves harmless redress for various injuries. □

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you don't know why,
solecism or emotion?
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softly makes her blush
all over. An exclamation,
and her eyes turn to iron.

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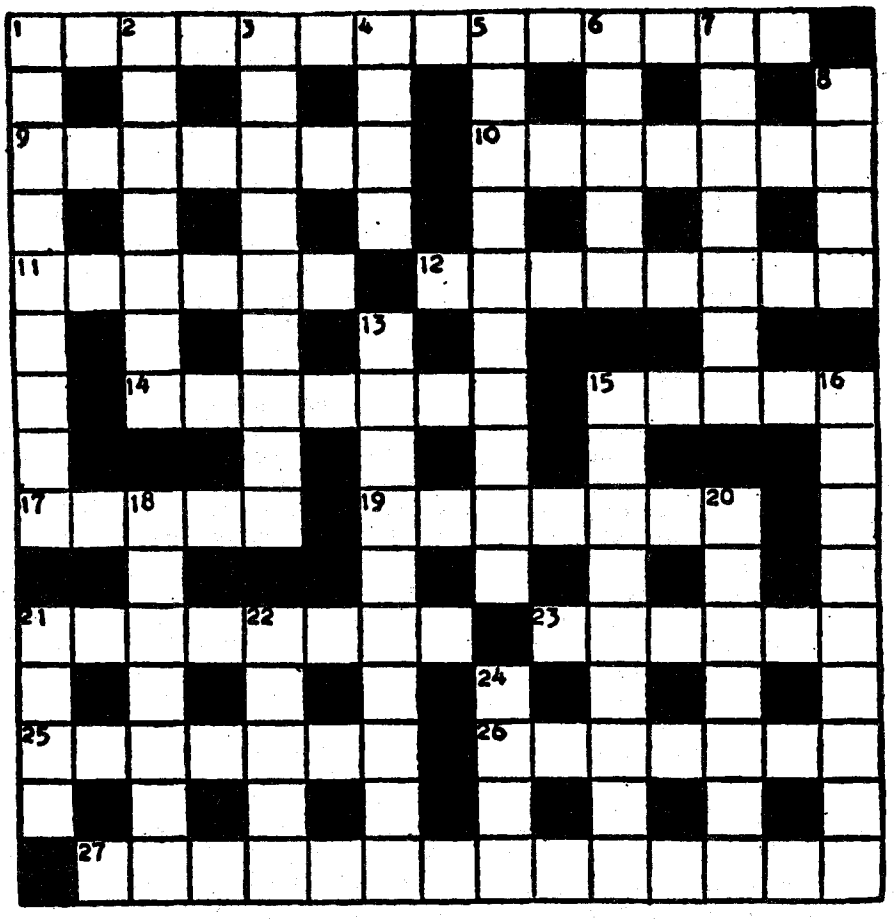
Crossword Puzzle No. 1402

FRANK W. LEWIS



ACROSS

1 He evidently didn't have much of an eye for cake. (6,3,5)
9 Not much pertaining to hypothetical force in the flower, commonly. (7)
10 Where *Nautilus* might be painted, and sink? (7)
11 Effort where no one is safe? (3-3)
12 See 4 down
14 The last of 11 to pull back in one direction. (7)
15 One mark of non-originality? (5)
17 He'll be a slippery type of weasel, very likely. (5)
19 Given free medical care? (7)
21 Marcus, with his usual ire, is easily upset. (8)
23 Swing low? They might be left! (6)
25 Foreign sight seen in the voyage Oliver started to finish? (7)
26 Mean to say good-by to anger? (7)
27 POW! He might be here! (10,4)

DOWN

1 Apportion, perhaps by the line, if classified. (Such sort are amused by it.) (9)
2 Is the opera about Castro and the daughter of Inachus? (7)
3 Coward's was brief, but you'll find it in groups nowadays. (9)
4 and 12 Keep watch on a familiar opera hero? You'll find out! (4,4,4)
5 Set in a literal outbreak, passes part of Asia. (4,6)
6 One of the things Edwin Markham was, as a thing to flout. (5)
7 Sounds as though Baba intended to get food. (7)
8 and 24 down The legal break-up of the East River Channel. (4,4)
13 Warning of a sort of explosion, as partly animal, thus I answer! (10)
15 Is the outcome of rent timed to be something of an obstacle? (9)
16 Fail to get up—from an upper berth? (9)
18 A particular account of sin, oversimplified. (7)
20 Designer with the doctors' group, making quite a scene. (7)
21 Before it gets in the pot? (4)
22 Not bound to be unchaste? (5)

SOLUTION TO PUZZLE NO. 1401

ACROSS: 1 and 10 Breach of promise; 5 Tomtom; 12 Abyss; 13 Third gear; 14 Elgin; 16 Eventide; 19 Conducts; 22 Caddy; 24 The Medium; 26 Norma; 28 Paragon; 29 Reckons; 30 Recent. DOWN: 1 Biplanes; 2 Ebony; 3 Crimsoned; 4, 31 and 11 Over the Hills and Far Away; 6 Oared; 7 Towheaded; 8 Mayors; 9 Office; 15 Geometric; 17 Technical; 18 By-passed; 20 Cairns; 21 Samurai; 23 Stupor; 25 Egg on; 27 Rhoda.

Readers are invited to send for a free copy of Mr. Lewis' "ground rules." Address Puzzle Department, *The Nation*, 333 Sixth Avenue, New York, N. Y. 10014.

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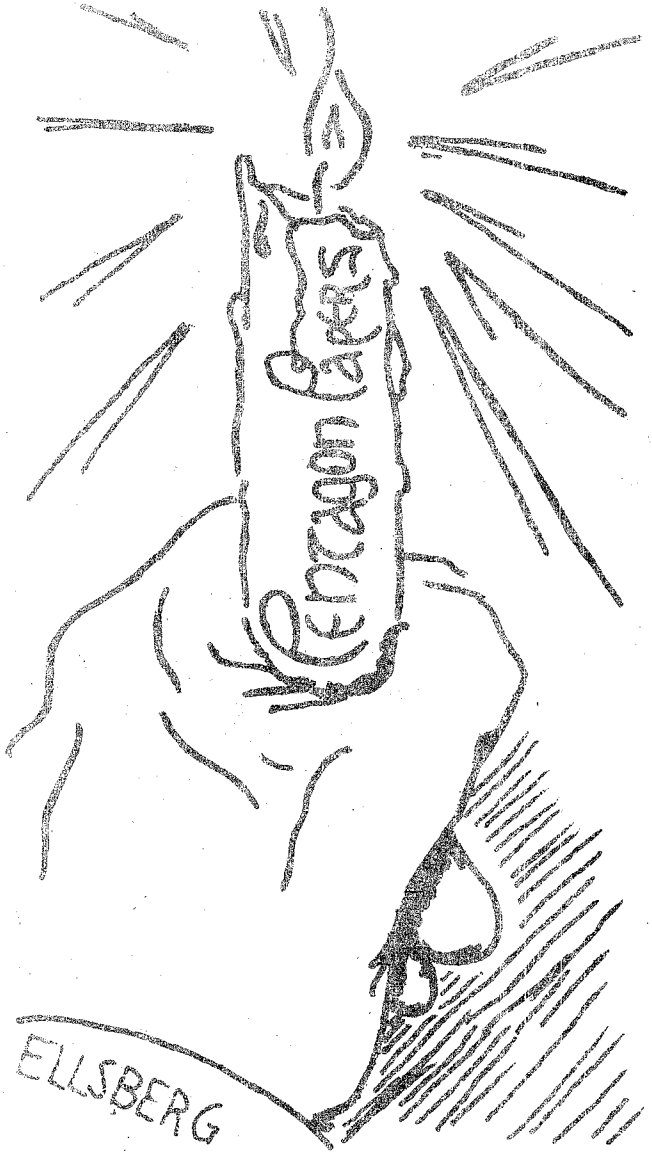

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